

WORKSHOP MATERIAL

REPORT TO THE KITTERY TOWN COUNCIL – WI AGREEMENT WORKING GROUP

RESPONSIBLE INDIVIDUAL: Beers

Date: Mar 15, 2016

SPONSOR: Beers

SUBJECT: Wood Island Concession Agreement Issues Working Group

BACKGROUND:

- Town Manager / WILSSA reviews and revisions to agreements from 08-10-15 leading to WILSSA version 12-25-15, reviewed by Town Attorney.
- Town Attorney review-version of Concession Agreement, "LegalReview", in track-changes strikeout-underline form. Council presented version with changes made, dated 01-16-16.
- WILSSA's final versions presented to Council, dated 01-19-16.
- Town Attorney responded to Town Manager in e-mail 01-21-16 to "*highlight my amendments to WILSSA's proposed documents*".
- Town Attorney e-mail of 01-22-16 forwarding National Park Service Program Manager LaForest message, stating, "*I concur with your recommended changes to the proposed concession agreement.*"
- Council approval of Concession and Repair Agreements with the Wood Island Life Station Association (WILSSA) for the Wood Island premises, January 25, 2016 (*encl 1*).
- National Park Service (NPS) Program Manager Elyse La Forest letter of rejection of the concession agreement, February 19, 2016 (*encl 2*).
- Council resolve at its Regular Meeting on February 22, 2016, as suggested by the Town Manager, to establish a working group to work for resolution.

FACTS BEARING ON THE EQUATION:

- Program of Utilization, Wood Island (*Atch 1*)
- NPS Concession Agreement Guidance (*Atch 2*)
- Wood Island Agreement Signed 10-18-13 (*Atch 3*)
- Maine – Kittery Preservation Covenant Agreement, signed (*Atch 4*)
- Concession Agreement 12-26-15LegalReview – Town Attorney (TA) Tracked Version (*Atch 5*)
- Concession Agreement 01-16-16 – TA Council Version (*Atch 6*)
- TA e-mail 01-21-16 (*Atch 7*)
- TA e-mail 01-22-16 (*Atch 8*)
- TA Repair Agreement (*Atch 9*)
- 01-25-16 Wood Island Repair Agreement, signed (*Atch 10*)
- Programmatic Agreement - National Maritime Heritage Grant Program (*Atch 11*)
- Submerged Lands Lease, Wood Island, 02-26-16 (*Atch 12*)
- MDEP_WILSSA Permit L26596ANBNCN (*Atch 13*)

NOTE: Attachments (except #12 & 13) were previously provided and not included in this report packet and are available on request. Copies to be provided to the Working Group.

REPORT TO THE KITTERY TOWN COUNCIL – WI AGREEMENT WORKING GROUP

CURRENT SITUATION:

- The NPS manager raised a number of issues that she concluded merits rejection of the concession agreement, as approved.
- The agreement parties as a matter of fact and law are the Town as represented by its Council and WILSSA; and the NPS is an oversight agency.
- It must be considered necessary, then, as discussed at the February 22nd Council meeting, to make arrangement for a designated group of the interested parties to meet and work toward resolution in order to reach an agreement agreeable to the town and WILSSA, and acceptable to the NPS in accordance with Federal criteria (*charge follows*).
- Initial review comparison documents have been produced to facilitate the working group's effort, as follows:
 - A Section-Title comparison with the NPS Model and the January 25th version of the Concession Agreement, as approved and signed (*encl 3, Section Match*).
 - A "Recitals-Witnesseth" comparison display of the NPS model; the Town Attorney's version 01-16-16; and, the Jan 25th approved version (*encl 4, Recitals Match*).
 - A display of the corresponding passages from all three of those documents with Notes and suggested Actions (*encl 5, Passage Match*).
 - A display of the five identified substantive issues between the Town Attorney-Town Manager version, 01-16-16 and the Council approved version, 01-25-16 (*encl 6, TA-TM Versions – Approved Versions – Substantive Issues*).
 - A display of the NPS Manager's issues with some observations (*encl 7, NPS Letter 02-19-16*).
- The Observations, as noted in the enclosures, reflect only my opinion.

RECOMMENDATION: Charter the working group as presented, following.

ENCLOSURES

1. Wood Island Concession Agreement, 01-25-16, signed
2. NPS Program Manager Letter, 02-19-16
3. Section Match
4. Recitals Match
5. Passage Match
6. TA-TM Versions – Approved Versions – Substantive Issues
7. NPS Letter 02-19-16 – Observations

REPORT TO THE KITTELY TOWN COUNCIL – WI AGREEMENT WORKING GROUP

61 WOOD ISLAND CONCESSION AGREEMENT ISSUES WORKING GROUPS

62 CHARGE

63 The KITTELY TOWN COUNCIL:

64 Hereby establishes the Wood Island Concession Agreement Issues Working Group as follows:

- 65 1. The Working Group consists of the Council Chairperson, a Wood Island Life Saving Station
66 Association representative, to meet with National Park Service (NPS) Program Manager; and,
67 such other Federal agency representatives to participate, as may be necessary.
- 68 2. The Council wishes the Working Group to investigate, examine, analyze, and report its
69 conclusions with any recommendations it may choose to make on the issues raised by the
70 National Park Service Program Manager in the letter dated February 19th, 2016, with the focus
71 on achieving an agreement acceptable to the Town, WILSSA, and the NPS.
- 72 3. The Working Group will hold its meetings at times and locations as mutually concluded;
73 organize itself; meet as often as it determines necessary to complete its task; and, achieve the
74 objectives laid out herein.
- 75 4. The Council wishes the Working Group to publish notice and agendas of its meetings; record
76 and publish the meeting minutes; submit periodic progress and status reports no less often than
77 monthly, with its final report delivered in time for consideration by the Council at its first June
78 regular meeting.
- 79 5. The Working Group reports to the Council as a whole. It has no authority with members of
80 municipal staff, except as it may be requested of, and directed by, the Town Manager.
- 81 6. The Working Group stands dissolved on May 31st, 2016, unless its term is extended by the
82 Council prior to that date.

CONCESSION AGREEMENT
Between
TOWN OF KITTERY, MAINE
and
WOOD ISLAND LIFE SAVING STATION ASSOCIATION

This Concession Agreement is made this 25th day of January, 2016 by and between the TOWN OF KITTERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a non-profit corporation with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", collectively as the "PARTIES".

RECITALS

Whereas, the TOWN owns certain land totaling 1.25 acres, historic lifesaving STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, found in Book 1985 Page 201 of the York Registry of Deeds. A copy of the quitclaim deed is attached (Exhibit A, "Quitclaim Deed"); and

Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, seawalls, and wreck pole; and

Whereas, Condition No. 1 of said deed sets forth that "the property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972 and amended the 27th day of November 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application;" and

Whereas, such program of utilization referenced above includes a statement that "the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on the condition of present buildings it would also be maintained as a point of interest or historic site;" and

Whereas, Condition No. 3 of said deed provides that "The property will not be sold, leased, assigned or otherwise dispose of except to another local Governmental agency..." "However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is provided in writing by the Secretary of the Interior or delegated representative"; and

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Whereas, the Secretary of the Interior must provide written concurrence to this CONCESSION AGREEMENT; and

Whereas, the PARTIES have entered into an agreement (Exhibit B, "Compromise agreement", dated January 19, 2016) for WILSSA to repair the STRUCTURES, maintain them and use them for the enjoyment of the public as a Maritime Museum; and

Whereas, the PARTIES desire to specify the conditions under which the PREMISES will be used for the enjoyment of the public as a park and Maritime Museum, and to allow WILSSA to raise funds for the expenses of the maintenance, repair, construction of the STRUCTURES and the costs of operating the Maritime Museum and other costs; and

Whereas, the primary purposes of the Maritime Museum established by WILSSA are the preservation of historical artifacts; the presentation of historical information; and, the offering of demonstrations and interactive exhibits of the maritime heritage of the Wood Island Life Saving Station; and

Whereas, the TOWN is satisfied that provision of additional services and facilities at the Wood Island Life Savings Station by WILSSA is in the TOWN's and the public's best interest.

NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual promises, covenants, and agreements, as hereinafter set forth, the TOWN agrees to allow WILSSA to establish, maintain and operate a Maritime Museum located on the Town's property at Wood Island in Kittery, Maine.

1. LOCATION:

The TOWN does hereby allow WILSSA the use of the Wood Island Life Saving Station and STRUCTURES which are part of the PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island, totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for public recreational use at all times as described in Section 3. Use of the property is subject to the terms and conditions contained in the deed, attached as Exhibit A.

2. USE OF PREMISES:

The PARTIES agree that the PREMISES must be used as a Maritime Museum with access to the public and for public recreational purposes. All uses undertaken by WILSSA pursuant to this agreement must comply with local land use ordinances, as well all local, state, and federal permits and regulations. TOWN acknowledges that this CONCESSION AGREEMENT is exclusive to WILSSA and may not contract with any other individual or entity, including the Town, during the term of this AGREEMENT. This provision does not preclude WILSSA from contracting with professional service providers, or other vendors, to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island.

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The premises may be used only for the following purposes, programs and activities:

- a. A museum will occupy the first floor, the observation tower and portions of the property, depicting the history of Wood Island, specifically the roles of the US Life Saving Service from 1908 to 1915; the US Coast Guard from 1916 to 1941 and 1945 to 1948; and, the US Navy from 1941 to 1945.
- b. Demonstrations of life saving operations, displays of life saving equipment and implements and demonstrations of their use, methods and types of life saving and lifesaving architecture nationwide and interior furnishings that replicate what life was like in the STATION for the men that served there.
- c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The Museum may be open seasonally to the public for such periods (months, days and hours) as determined in the sole discretion of WILSSA, but is intended to be open from June 1st through August 31th of any year covered by this agreement.
- d. Office and lodging space to support the Museum may be provided on the second floor with limited public access. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no public access. The shed is expected to offer a handicapped accessible bathroom and storage space for a generator.
- e. All other programs, activities and events related to or in furtherance of the purposes of the Museum.

3. Free Public Access for Recreation:

Nothing in this AGREEMENT may restrict the public's access to Wood Island itself for recreational purposes year round, even when the Museum is not in operation and/or during off season with the exception of areas inside designated construction sites or the Museum. No fee will be charged for public recreational use of the PREMISES except as described in Section 21.

4. TERM:

This AGREEMENT shall be effective from the date the certificate of occupancy is issued for an initial term of twenty (20) years.

5. RENEWAL

WILSSA has the exclusive option of extending this agreement for 1 additional twenty (20) year period.

WILSSA shall mail notice to the Town of its intent to exercise its option to renew the agreement ninety (90) days prior to expiration.

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6. RENT AND FEES:

WILSSA shall pay no rent for the use of the STATION or STRUCTURES. In addition, no other costs or fees or taxes of any kind may be levied upon WILSSA for its use of the PREMISES including, but not limited to, real estate property taxes or special assessments. This is not intended to include any sales or income taxes or fees that may be required pursuant to State or Federal law.

7. UTILITIES:

WILSSA is solely responsible for the design, construction and payment of costs associated with the operation of any utility or security services on the premises.

8. NO RIGHT TO ASSIGN OR SUBLET:

WILSSA agrees not to assign or sublet any part of the premises without a majority vote of the full Town Council approval following a public hearing and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional service providers or other vendors to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island.

9. MAINTENANCE OF STRUCTURES:

During and throughout the term of this agreement, WILSSA shall, at its own expense and at no cost or expense to the TOWN, maintain the STRUCTURES in a safe and orderly manner. A 20-year Preservation Agreement describing maintenance and related conditions for the exterior of the STATION (Exhibit C, "Preservation Agreement") has been approved by the designee of the National Park Service and entered into by TOWN as Grantor and the State of Maine as Grantee. That Agreement allows for TOWN to seek other parties to pay for the maintenance costs of the STATION exterior. WILSSA shall maintain the exterior of the STATION in accordance with that Agreement on behalf of the TOWN.

10. RESTRICTIONS ON USE AND ACTIVITIES:

During and throughout the term of this AGREEMENT, the use, occupancy and activity of WILSSA, all persons holding by or through WILSSA and all persons who come upon the premises with the consent of the WILSSA are restricted as follows:

- a. Permitted use. No part of the PREMISES may be used for any purpose other than as described in this CONCESSION AGREEMENT.
- b. Hazardous use. No part of the PREMISES may be used or occupied for any purpose that is extra hazardous on account of fire, explosion, or toxic or radioactive emission or contamination.
- c. Environmental protection. All activities on the PREMISES and all uses to which any part of the PREMISES is put must comply in all material respects with Federal, State and local environmental protection statutes, laws, rules and regulations, subject to WILSSA's right to contest the applicability thereof, during which contest WILSSA may not be deemed in non-compliance. WILSSA must not discharge, nor permit or suffer to be discharged, on or into the ground any substance that may endanger or pollute the groundwater supply in any material respect.

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WILSSA shall promptly execute and comply in all material respects with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State, and Local governments having jurisdiction over said premises for the correction, prevention, and abatement of pollution and use of the premises during the term of this Agreement and any renewal thereof.

d. Historic Property: The subject property is deemed to be historic (Exhibit D, "Determination of Eligibility") and WILSSA will adequately ensure the preservation of the historic property per the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building.

Also in accordance with that Preservation Agreement, any proposed construction, alteration, remodeling, changes of color or surfacing or any other change that would affect the structural integrity, appearance, cultural use, or archeological value of the property requires express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed changes to the property to the TOWN simultaneously to its submittal for approval to the Director of the Maine Historic Preservation Commission.

11. INSPECTION:

The National Park Service, and the State Historic Preservation Officer, and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection for compliance upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the Town's public safety personnel, including Fire and Police, have the right to enter into the STATION at any time to perform inspections or undertake any activities within their respective functions and jurisdictions.

12. SURRENDER.

At the expiration of the initial term or subsequent renewal term of this AGREEMENT, WILSSA shall surrender the STATION to TOWN with all buildings, structures, and other improvements thereon.

13. MOVABLE STRUCTURES.

Machines, trade fixtures and similar installations which are installed in any building, structure, or other improvement on the premises are not deemed to be part of the realty even though such installations are attached to the floors, walls, or roof of any building or structure or to outside pavements, so long as such installation can be removed without structural damage to any building, structure, or other improvement on the premises; provided, however, that if the removal of any such installation damages any part of the building, structure, other improvement, pavements or premises, WILSSA shall repair such damage and restore said building, structure, other improvement, pavements or premises to the same condition as originally existed upon the issuance of a certificate of occupancy, ordinary and usual wear and tear excepted.

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14. PERSONAL PROPERTY.

Any and all personal property of every kind and nature whatsoever, whether or not attached to or installed in any building, structure, or other improvement which WILSSA places in, upon, or about the premises during the term hereof may be removed there from prior the expiration of the term of this agreement and remain the personal property of WILSSA.

15. INSURANCE.

WILSSA shall at its sole expense during the term of this agreement maintain insurance per the specifications and minimum limits set forth herein.

a. Commercial General Liability on an occurrence, as opposed to claims made, basis with general aggregate limit applicable per project and per location.

Each occurrence limit:	\$1,000,000.00
General aggregate limit:	\$2,000,000.00
Products/Completed operations aggregate limit:	\$2,000,000.00

b. An additional insured provision is to apply to the TOWN and its respective officers, officials, agents, and employees on a primary, non-contributory basis.

c. Automobile liability for owned, hired, and non-owned autos with combined single limit each accident of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its respective officers, officials, agents, and employees.

d. If there are any employees, workers' compensation insurance to comply with the requirements of Maine statute, plus employers' liability for:

Each Accident:	\$100,000.00
Each Employee (disease):	\$100,000.00
Policy Limit (disease):	\$500,000.00

f. If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688) commonly referenced as the "Jones Act".

g. All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to conduct business in the STATE OF MAINE. All policies shall be so written that the Kittery Town Manager will be notified of cancellation at least ten (10) days prior to the effective date of such cancellation. A certificate of insurance from WILSSA's insurance carrier showing at least the coverage and limits of liability specified above and the inception and expiration dates shall be filed with the Town Manager at least seven (7) calendar days before operations are begun.

h. WILSSA agrees to require that any written Agreements between WILSSA and any of its service or material provider(s) will require the same provisions, coverages, and limits as in this Article 15. WILSSA shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA's obligations under this Article.

OTHER TERMS AND CONDITIONS

16. INDEMNITY AND LIMITATION OF LIABILITY

1. WILLSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers, officials, agents, employees, members of boards and committees, with respect to the equipment, work and materials that WILLSSA or its subcontractors, employees, agents or representatives have agreed to perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands, payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from claims arising out of or related to any act or omission of WILLSSA, its agents, employees, contractors, representatives for service or materials provided, in the work and materials that WILLSSA has agreed to perform and supply under this AGREEMENT. This obligation to indemnify, defend and hold harmless does not waive any defense, Immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.
2. In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILSSA within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with TOWN, WILSSA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.
3. The TOWN'S failure to give timely notice to WILLSSA of the commencement of any such action does not relieve WILLSSA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILLSSA's ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILLSSA or by counsel selected by WILLSSA, without the approval of the TOWN, which approval may not be unreasonably withheld.
4. The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for liability insurance under this Agreement.
5. The provisions of this Article survive the termination of this AGREEMENT.

17. FORCE MAJEURE

WILSSA is not liable for any loss or damage due to failure or delay in performance under this AGREEMENT resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control including, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; or unusual delay in transportation.

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18. WAIVER:

Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, is not deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision. If any action by either party requires the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion may not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this agreement, upon any breach, are distinct, separate and cumulative and not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, may be deemed to be an exclusion of any other.

19. NON-DISCRIMINATION:

Within the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building, the TOWN agreed to comply with certain State and Federal laws relating to nondiscrimination on the basis of race, religion, national origin or disability. WILSSA shall comply with those same terms and conditions.

20. ACKNOWLEDGEMENT:

This AGREEMENT and the obligations of the parties hereto are subject to the terms and conditions set forth in the Deed from the USA to the TOWN, dated the 27th day of February, 1973, and recorded at York County Registry of Deeds/Clerks Office at Book 1985, page 201, and the current Program of Utilization which governs the use of the PREMISES.

21. RETENTION OF EARNINGS:

WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. Those activities and their fees include, but are not limited to, admissions fees, rental fees, docking and mooring fees, membership fees, merchandise sales, food and beverage sales, lodging fees and royalties. The scheduling and marketing of such authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area.

22. TERMINATION**A. TOWN may terminate this AGREEMENT if WILSSA:**

- 1) Is in substantial breach of a provision of this AGREEMENT.
- 2) If WILSSA ceases to be an active, functioning nonprofit corporation registered to do business under the laws of the STATE of MAINE.

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When any of the above conditions exist, TOWN may, without prejudice to any other rights or remedies of TOWN and after giving WILSSA thirty days written notice to remedy above condition and the condition has not been remedied, terminate this AGREEMENT:

B. WILSSA may terminate this AGREEMENT if TOWN:

1) Is in substantial breach of a provision of this AGREEMENT document.

If the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied, terminate the AGREEMENT without penalty.

23. NOTICE:

Whenever notice is required to be given under the terms of this License, such notice must be in writing and either hand delivered or mailed by certified mail, return receipt requested:

If to the WILSSA, to:

Wood Island Life Saving Station Assoc.

PO Box 11

Kittery Pt, ME 03905

If to TOWN, to:

Town Manager

Town of Kittery

200 Rogers Road

Kittery, ME 03904

or to such other addresses as WILSSA or TOWN designate for themselves in the same manner.

24. AMENDMENT TO CONCESSION AGREEMENT:

This CONCESSION AGREEMENT contains all the terms and conditions between the parties, and no alteration, amendment, or addition is valid unless in writing and signed by WILSSA and a majority vote of the full Kittery Town Council. If an amendment is made, written concurrence by the Secretary of the Interior or designee is required in compliance and accordance with the TOWN's Deed from the Department of the Interior.

25. OTHER ITEMS:

The terms of the Repair, Maintenance and Use Agreement (Exhibit B, "Compromise Agreement", dated January 19, 2016), remain in effect throughout the duration of this CONCESSION AGREEMENT or any renewal term.

26. GOVERNING LAW

This AGREEMENT is governed and interpreted by Maine law.

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27. SEVERABILITY OF PROVISIONS

If any provision or any portion thereof contained in this AGREEMENT is held unconstitutional, invalid or unenforceable by a court of jurisdiction, the remainder of this AGREEMENT shall be deemed severable, shall not be affected, and shall remain in full force and effect.

28. CAPTIONS:

The captions to the paragraphs herein are for convenience only and are not to be deemed inclusive; the Concession Agreement must be interpreted based upon its entire context.

IN WITNESS WHEREOF, the parties have set their hands and seals or caused this agreement to be signed by their properly authorized corporate officers and caused their corporate seals to be hereunto affixed this 25 day of January, 2016.

TOWN, by: Mary A. Puff per Town Council vote of 1/25/16 "contingent" upon NPS
Nancy Gilbert Puff, Town Manager
written concurrence
[Name] [Title] [Address] [Town, State, Zip Code]

WITNESS: Chloe M. G. Vachon

WILSSA, by: Paul J. P. J.
President. PO Box 11 Ketchikan, AK 99901
[Name] [Title] [Address] [Town, State, Zip Code]

WITNESS: Haer Eater

EXHIBIT A: Quitclaim Deed

EXHIBIT B: Repair, Maintenance, and Use Agreement (Compromise Agreement)

EXHIBIT C: Preservation Agreement

EXHIBIT D: Determination of Eligibility



United States Department of the Interior
NATIONAL PARK SERVICE
NORTHEAST REGION
15 State Street
Boston, Massachusetts 02109-3572

IN REPLY REFER TO:

8.A.2

February 19, 2016

Ms. Nancy Colbert Puff
Town Manager
Town of Kittery
200 Rogers Rd Ext.
Kittery, Maine 03904

Reference: Old Portsmouth Harbor Life Boat Station
Wood Island, Kittery, Maine
GSA Control Number U-ME-449A

Dear Ms. Puff:

We have reviewed the concession agreement between the Town of Kittery (Town) and the Wood Island Life Saving Station Association (WILSSA). We are full supportive of the Town partnering to restore the lifesaving station and it is exemplary that WILSSA has secured grants for the restoration of the exterior of the lifesaving station. Unfortunately, the concession agreement for the station's subsequent operation and use does not follow the National Park Service (NPS) concession agreement template furnished to the Town. Additionally, the agreement is too vague and some of the stated elements do not meet our criteria for public recreational use. Accordingly, it is not approved.

Specific issues that must be corrected are:

Many of the mandatory clauses in the concession template have been omitted. Many have been edited or rewritten to make them unacceptable. Just one example is:

The template states: Assignment and Subletting: Concessionaire shall not assign this Agreement or any interest therein, nor let or sublet the said premises or any part thereof or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person. Said let or underlet shall be grounds for termination of Agreement by the [Town/City/County/State] or possible reversion by the USA.

Vs.

The agreement states: No Right to Assign or Sublet: WILSSA agrees not to assign or sublet any part of the premises without a majority vote of the full town Council approval following a public hearing and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional

service providers or other vendors to assist in operating the station such as charter boat operators to transport visitor to and from Wood Island.

The second clause is not a valid substitution for the first. It is suggested that the Town redraft the concession agreement starting with the concession template. "Mandatory" clauses are mandatory. "Mandatory if applicable" clauses should start with the provided clause and be adapted to fit the need, however the intent of the clause must be maintained.

We feel this agreement surrenders all control and possession of the property to WILSSA by the Town, which is unacceptable. Further, the term of the agreement is 20 years with a 20-year renewal, is too long. While the 20-year term may have been used to coincide with the preservation agreement, we feel a 10-year term with 5- or 10-year renewal periods is more appropriate.

The agreement intermingles the term premises and structures. The term "structures" is too broad and seems to pertain to features that exist and those that may be constructed.

Any construction on the island other than rehabilitation of the lifesaving structure must be approved by the Town and, potentially, the NPS. Approval of significant alterations or additional buildings/structures may be subject to the National Environmental Policy Act (NEPA) and Section 106 review of the National Historic Preservation Act (106).

On the surface this agreement seems to be generally for the use station structure and for the operation of a museum. However the agreement states "the Museum may be open seasonally to the public for such periods ... as determined in the sole discretion of WILSSA." This is too permissive. The Town would have no recourse under this agreement if WILSSA chooses to NOT open the Museum. If circumstances dictate that the museum cannot be open during the desired times (ie., construction delays, major storm damage) the Town may allow WILSSA some latitude, but the Town must be involved in any decision to "not open" the facility to the public for an extended length of time.

Whereas the fundamental purpose of this agreement is to operate a Maritime Museum that is open to the public, the Town should have the option to terminate the agreement if unforeseen circumstances preclude its opening. Similarly, throughout the agreement, public recreational use and public access to the museum should be stressed. While we recognize that a Museum with artifacts cannot be "open to the public" at all times, the land and the structure are owned by the Town and public access must be reasonably assured.

Similarly, if construction of other facilities is contemplated and authorized by this agreement, the Town must have control and/or oversight for their use. (i.e., If a docking facility is contemplated, will the public be allowed to use it to access the island?) If future facilities are unknown at this time, provisions to amend this agreement to include future issues should be included.

Lodging is not an approved recreational use of the property.

"All other programs, activities and events related to or in furtherance of the purposes of the Museum" is too broad a statement. Any commercial activity WILSSA may contemplate would

be authorized by this agreement and may not be an approved recreational use. The Town (and potentially NPS) must review any "programs" in furtherance of the Museum, or at a minimum set parameters.

In the section entitled Retention of Earnings, contemplated authorized activities listed are: admissions fees, rental fees, docking and mooring fees, membership fees, merchandise sales, food and beverage sales, lodging fees and royalties. The Town needs to understand and articulate exactly what is being contemplated by this agreement. Admission fees and rental fees are ones that may be expected for a museum. But docking, mooring and membership fees could relate to a marina or boat club. As mentioned above, lodging is not a recreational use. Food and beverage sales may be permitted in support of the recreational public. However, a destination restaurant is not a permitted recreational use. What royalties are anticipated?

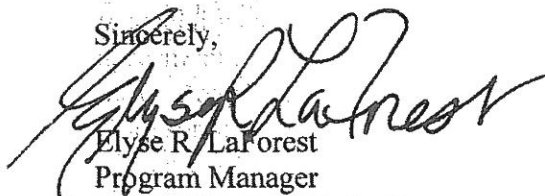
While docking facilities were contemplated in the original program of utilization, and may be required to support reconstruction of the station and the operation of a museum, the Town must define the extent of construction authorized at Wood Island. Once the Town determines the level of construction authorized, it can be compared to the POU submitted in 1972 and from there it can be determined if the POU needs to be amended and whether further environmental documentation (NEPA) or 106 review is required.

The Town did not ask NPS to review the Wood Island Life Saving Station Repair, Maintenance and Use Agreement which is attached and referenced in the Concession agreement. However, we believe the Repair Maintenance and Use agreement should follow the format and contain the mandatory clauses listed in the concession template as that is the only form of "sub-agreement" authorized by the deed of conveyance. It should be approved by NPS. The term "structures" (especially as they relate to structures that will be constructed) must be defined. Further if this agreement authorizes WILSSA to construct structures, additional environmental and 106 review may be required. We strongly suggest that the two agreements be combined into one document. Both serve essentially the same purpose and may contradict one another once the concession agreement is rewritten.

It is important that the Town and WILSSA understand that Wood Island was conveyed to the Town under the Federal Property Management and Administrative Services Act of 1949, not the National Historic Lighthouse Preservation Act (NHLPA). The rules of the two programs are different and activities permitted at a "lighthouse property" may not be allowable at this property. (For example a bed and breakfast facility may be permitted at a NHLPA site, but is not considered a recreational use and is not allowable at Wood Island.)

We are sorry our review could not be more positive. Please feel free to contact me if you need further clarification.

Sincerely,



Elyse R. LaForest
Program Manager
Federal Lands to Parks Program

SECTION MATCH

	A	B
1	All but three items of the NPS Model Agreement are addressed in the KTC-WILSSA 01-25-16 Agreement (pink). The 01-25-16 section numbering does not align exactly as the NPS model . Some 01-25-16 language is found in other sections (blue).	
2		
3	NPS MODEL - INSTRUCTIONS	01-25-16 APPROVED CONCESSION AGREEMENT
4	1. (M) Location:	1. Location
5	2. (M) Use of Premise:	2. Use of Premises
6	(M) [Describe general public use]	3. Free Public Access for Recreation
7	(MA) [restrictions and environmental and usage]	IN #10c BELOW
8	3. (MA) Personal Property:	14. Personal Property.
9	4. (M) Term:	4. Term
10	5. (OA) Renewal:	5. Renewal
11	6. (M) Concession Payments:	6. Rent and Fees
12	7. (M) Concessionaire's records and documents:	Not found (Nor TA-TM Version) - In Repair Agmt
13	8. (M) Operations and Maintenance:	IN #9 BELOW
14	9. (MA) Licenses and Permits:	IN #2 ABOVE
15	10. (MA) Operating Expenses and Utilities:	7. Utilities
16	11. (M) Non-discrimination:	19. Non-discrimination
17	12. (MA) Historic Properties:	10. Restrictions on Use and Activities
18	13. (MA) Alterations and Improvements:	13. Movable structures.
19	14. (MA) [disposition of real-personal property]	ALSO IN #10 ABOVE & #13 - REPAIR AGREEMENT
20	15. (MA) Maintenance and Repair:	9. Maintenance of Structures
21	16. (M) Inspection of Concession Areas:	11. Inspection
22	17. (M) Indemnity:	16. Indemnity and Limitation of Liability
23	18. (OA) Insurance:	15. Insurance.
24	19. (M) Assignment and Subletting:	8. No Right to Assign or Sublet
25	20. (M) Amendment to Concession Agreement:	24. Amendment to Concession Agreement
26	21. (M) Laws and Regulations:	26. Governing Law
27	22. (OA) Signage:	OPTIONAL - LOCAL ORDINANCE REQUIREMENTS
28	23. (M) Surrender: Waste:	12. Surrender.
29	24. (M) Liens:	Not found (Nor TA-TM Version) - In Repair Agmt
30	25. (M) Waiver:	18. Waiver
31	26. (M) Termination:	22. Termination
32	27. (M) Acknowledgement:	20. Acknowledgement
33	28. (M) Notice:	23. Notice
34	NOT CALLED OUT	17. Force Majeure
35	NOT CALLED OUT	21. Retention of Earnings
36	NOT CALLED OUT	25. Other Items
37	NOT CALLED OUT	27. Severability of Provisions
38	NOT CALLED OUT	28. Captions
39	RECOMMENDATION:	
40	REALIGN KTC-WILSSA 01-25-16 APPROVED AGREEMENT WITH SECTION NUMBERING PARALLEL TO THE NPS MODEL. INCLUDE NPS SECTION 22, SIGNAGE WITH REFERENCE TO TOWN CODE TITLE 16. REPEAT THE PASSAGES FOR SECTIONS 7 & 24 FROM REPAIR AGREEMENT IN THIS AGREEMENT. RELOCATE 01-25-16 LANGUAGE TO THE NPS MODEL APPLICABLE SECTIONS, WHERE APPROPRIATE.	

A		B		C
NPS		TM-TA		KTC-WILSSA 01-25-16
1	(M) This Concession Agreement, hereinafter referred to as the "Agreement" is made and entered into this ____ day of _____, 20XX, between the [Name of Town/City/County/State] hereinafter referred to as the "[Town/City/County/State]", and [Name of Concessionaire], hereinafter called the "Concessionaire." [Identify type of Concessionaire, i.e. nonprofit, sole proprietor, LLC, volunteer organization].	This Concession Agreement is made this ____ day of _____, 2016 by and between the TOWN OF KITTERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a Maine non-profit corporation based in Kittery Point, Maine with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", and collectively as the "PARTIES".		This Concession Agreement is made this 25th day of January, 2016 by and between the TOWN OF KITTERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a non-profit corporation with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", collectively as the "PARTIES".
2				
3	Witnesseth: (M) Whereas, the [Town/City/County/State], owns certain land totaling _____ acres, obtained by the [Town/City/County/State] from the United States of America (hereinafter referred to as the "USA", as surplus property, known as [former/current name of site], and deeded to the [Town/City/County/State] on [date]. Said quitclaim deed is attached and hereinafter referred to as Exhibit A; and	RECITALS Whereas, the TOWN owns certain land totaling 1.25 acres, historic <u>lifesaving</u> STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, and found in Book 195 Page 201 of the York County Registry of Deeds. A copy of the quitclaim deed, hereinafter referred to as the "Town's Deed," is attached (Exhibit A, "Quitclaim Deed"); and		RECITALS Whereas, the TOWN owns certain land totaling 1.25 acres, historic <u>lifesaving</u> STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, found in Book 195 Page 201 of the York Registry of Deeds. A copy of the quitclaim deed is attached (Exhibit A, "Quitclaim Deed"); and
4		Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, , seawalls, and wreck pole. WILSSA expects to seek approval to construct and maintain a pier and float extending from the premises and to apply for mooring rights; and		Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, sea walls, and wreck pole; and
5		Whereas, Condition No. 1 in the Town's Deed explicitly states as follows:		Whereas, Condition No. 1 of said deed sets forth that
6	(M) Whereas, the [Town/City/County/State] and Concessionaire desire to provide a [insert type of service- ex. food service, bike rentals] on a portion of [former/current name of site] for the use and benefit of the general public.	"The property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972, as amended the 27 th day of November, 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee, with the written recommendation and advice of the other party, and such amendments Whereas, such program of utilization referenced above includes a statement that "the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on condition of present buildings it would also be maintained as a point of interest or historic site;" and		"the property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972 and amended the 27th day of November 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee with the written recommendation and advice of the other party, and such amendments Whereas, such program of utilization referenced above includes a statement that "the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on the condition of present buildings it would also be maintained as a point of interest or historic sit e;" and
7				
8		Whereas, Condition No. 3 in the Town's Deed expressly stated:		Whereas, Condition No. 3 of said deed provides that
9	(M) Whereas, Condition No. 3 of said Deed provides that the [Town/City/County/State]			

1	A NPS	B TM-TA	C KTC-WILSSA 01-25-16
	"will not sell, lease, assign or otherwise dispose of the premises, except to another local Government agency...." (MA) However, nothing in this provision shall preclude the [Town/City/County/State] from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is provided in writing by the Secretary of the Interior or his/her delegated representative, NPS.	"The property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for a public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provisions shall preclude the Grantee from providing recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided concurrence to such agreements is obtained in writing from the Secretary of the Interior; and	"The property will not be sold, leased, assigned or otherwise dispose of except to another local Governmental agency ..." "However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is provided in writing by the Secretary of the Interior or delegated representative"; and
10		Whereas, as required by express terms of the Town's Deed, it is anticipated that the Secretary of the Interior will provide written concurrence to this Concession Agreement; and	Whereas, the Secretary of the Interior must provide written concurrence to this CONCESSION AGREEMENT; and
11		Whereas, the PARTIES have entered into a separate Maintenance Agreement (Exhibit B, "Agreement Two") for WILSSA to repair the STRUCTURES, maintain them and use them for the enjoyment of the general public including a public Maritime Museum; and	Whereas, the PARTIES have entered into an agreement (Exhibit B, "Compromise agreement", dated January 19, 2016) for WILSSA to repair the STRUCTURES, maintain them and use them for the enjoyment of the public as a Maritime Museum; and
12		Whereas, the PARTIES desire to specify the conditions under which the premises will be used for the use and enjoyment of the general public for public park and recreational use and including a public Maritime Museum, and to allow WILSSA to raise funds for the expenses of the maintenance, construction, operation and other costs for maintaining the structures on the premises; and	Whereas, the PARTIES desire to specify the conditions under which the PREMISES will be used for the enjoyment of the public as a park and Maritime Museum, and to allow WILSSA to raise funds for the expenses of the maintenance, repair, construction of the STRUCTURES and the costs of operating the Maritime Museum and other costs; and
13		Whereas, the primary purposes of that portion of the premises being used as a public Maritime Museum to be maintained by WILSSA, pursuant to this Concession Agreement, are the preservation of historical artifacts; the presentation of historical information; and, the offering of demonstrations and interactive exhibits of the maritime heritage of the Wood Island Life Saving Station; and	Whereas, the primary purposes of the Maritime Museum established by WILSSA are the preservation of historical artifacts; the presentation of historical information; and, the offering of demonstrations and interactive exhibits of the maritime heritage of the Wood Island Life Saving Station; and
14	(M) Whereas the [Town/City/County/State] is satisfied that provision of additional services and facilities at [former/current name of site] is in the [Town/City/County/State's] best interest;	Whereas, the maintenance and proposed use of the structures by WILSSA must be consistent with the TOWN's best interest.	Whereas, the TOWN is satisfied that provision of additional services and facilities at the Wood Island Life Savings Station by WILSSA is in the TOWN's and the public's best interest.
15	NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual covenants and agreements as hereinafter set forth, the [Town/City/County/State] agrees to allow Concessionaire to provide [describe type of concession] services and facilities hereinafter to be mentioned upon a portion of the real property described in Exhibit A attached hereto and incorporated herein by this reference and located at the [former/current name of site].	NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual promises, covenants, of this Agreement, as hereinafter set forth, the TOWN agrees to allow WILSSA to establish, maintain and operate a public Maritime Museum on the Town's property and at Wood Island	NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual promises, covenants, and agreements, as hereinafter set forth, the TOWN agrees to allow WILSSA to establish, maintain and operate a Maritime Museum located on the Town's property at Wood Island in Kittery, Maine.
16			

	A	B	C
1	SRCE	MODEL - INSTRUCTIONS	KTC-WILSSA APPROVED CONCESSION AGREEMENT
2	Passage	1. (M) Location:	1. Location
3	NPS	1. (M) Location: The [Town/City/County/State] does hereby assign to the Concessionaire the use of the [describe area/building] which is [a portion of/located on] the property as described in Exhibit A. [If the deed contains any restrictions on the use of the property which have been incorporated by reference, Concessionaire must be provided with appropriate sections of the documents and they should be described here and named as Exhibit B].	
4	TA-TM	1. LOCATION: The TOWN allows WILSSA to use a portion of Wood Island consisting of the Wood Island Life Saving Station and STRUCTURES which are part of the PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island, totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for public park and recreational use at all times subject to the terms and conditions contained in the TOWN's Deed, attached as Exhibit A.	
5	WILSSA	1. LOCATION: The TOWN does hereby allow WILSSA the use of the Wood Island Life Saving Station and STRUCTURES which are part of the PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island, totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for public recreational use at all times as described in Section 3. Use of the property is subject to the terms and conditions contained in the deed, attached as Exhibit A.	
6	NOTES	NO APPRECIABLE DIFFERENCE SEEN, ALTHOUGH "PROPERTY" SHOULD, PERHAPS, BE "PREMISES".	
7	ACTION	REVIEW FOR NPS CONCURRENCE.	
8	Passage	2. (M) Use of Premise:	2. Use of Premises
9	Passage	9. (MA) Licenses and Permits:	
10	NPS	2. (M) Use of Premise: Concessionaire shall use, occupy and maintain the premises/portion of premises herein assigned in a business like, careful, clean and non-hazardous manner for the sole purpose of [describe activity] in strict accordance with all terms and provisions imposed by the Department of the Interior as set forth in Exhibit A. Written approval by the [Town/City/County/State] and written concurrence by the Secretary of the Interior or his/her delegated representative, NPS, shall be required for other proposed use in conjunction with or in addition to those specified above.	
11	TA-TM	<p>2. USE OF PREMISES:</p> <p>Under the TOWN's Deed the PREMISES must be used for public park and public recreational use, but WILSSA may use the STRUCTURES for a public Maritime Museum with access to the general public.</p> <p>All uses undertaken by WILSSA pursuant to this Agreement must strictly comply with local land use ordinances, as well all local, state, and federal permits and regulations. TOWN acknowledges that this Concession Agreement is exclusive to WILSSA for the purpose of operating a public maritime museum during the term of this AGREEMENT. This provision does not preclude WILSSA from contracting with professional service providers, or other vendors, to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island, subject to compliance with all provisions of this AGREEMENT.</p> <p>The premises may be used only for the following purposes, programs and activities, subject to all applicable Town, State, and Federal permits and approvals:</p> <p>a. A public museum will occupy the first floor, the observation tower and portions of the property, depicting the history of Wood Island, specifically the roles of the US Life Saving Service from 1908 to 1915; the US Coast Guard from 1916 to 1941 and 1945 to 1948; and, the US Navy from 1941 to 1945.</p> <p>b. Demonstrations of life saving operations, displays of life saving equipment and implements and demonstrations of their use, methods and types of life saving and lifesaving architecture nationwide and interior furnishings that replicate what life was like in the STATION for the men that served there.</p> <p>c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the public Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The public Museum must be open seasonally to the general public for such periods (months, days and hours) as determined by the agreement of WILSSA and subject to the prior approval of Town Council.</p> <p>d. Office and lodging space to support the public Museum may be provided on the second floor with limited public access, provided that such use complies with Town ordinances. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no general public access. All structures maintained by WILSSA shall comply with all applicable Municipal, State and Federal handicapped accessibility regulations, statutes and codes. The shed is expected to offer a handicapped accessible bathroom.</p> <p>e. All other programs, activities and events related to or in furtherance of the purposes of this public Maritime Museum.</p>	

	A	B	C
		<p>2. USE OF PREMISES: The PARTIES agree that the PREMISES must be used as a Maritime Museum with access to the public and for public recreational purposes. All uses undertaken by WILSSA pursuant to this agreement must comply with local land use ordinances, as well all local, state, and federal permits and regulations. TOWN acknowledges that this CONCESSION AGREEMENT is exclusive to WILSSA and may not contract with any other individual or entity, including the Town, during the term of this AGREEMENT. This provision does not preclude WILSSA from contracting with professional service providers, or other vendors, to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island.</p> <p>The premises may be used only for the following purposes, programs and activities:</p> <p>a. A museum will occupy the first floor, the observation tower and portions of the property, depicting the history of Wood Island, specifically the roles of the US Life Saving Service from 1908 to 1915; the US Coast Guard from 1916 to 1941 and 1945 to 1948; and, the US Navy from 1941 to 1945.</p> <p>b. Demonstrations of life saving operations, displays of life saving equipment and implements and demonstrations of their use, methods and types of life saving and lifesaving architecture nationwide and interior furnishings that replicate what life was like in the STATION for the men that served there.</p> <p>c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The Museum may be open seasonally to the public for such periods (months, days and hours) as determined in the sole discretion of WILSSA, but is intended to be open from June 1st through August 31th of any year covered by this agreement.</p> <p>d. Office and lodging space to support the Museum may be provided on the second floor with limited public access. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no public access. The shed is expected to offer a handicapped accessible bathroom and storage space for a generator.</p> <p>e. All other programs, activities and events related to or in furtherance of the purposes of the Museum.</p>	
12	WILSSA		
13	NOTES	NO APPRECIABLE DIFFERENCE SEEN. SUBPARA C, "FEES CHARGED" REPEATS IN SECTION 21.	
14	ACTION	REVIEW FOR NPS CONCURRENCE.	
15	Passage	(M) [Describe general public use]	3. Free Public Access for Recreation
16	NPS	(M) [Describe how the general public will be allowed to use the property for park and recreational use such as when the concession is not in operation and/or during off season.]	
17	TA-TM	<p>3. Free Public Access for Recreation: Nothing in this AGREEMENT may restrict the public's access to Wood Island itself for park and recreational purposes year round, even when the public Maritime Museum is not in operation and/or during off season with the exception of areas inside designated temporary construction sites or when outside the public Maritime Museum's regular operating hours. No fee can be charged for public park and recreational use of the PREMISES.</p>	
18	WILSSA	<p>3. Free Public Access for Recreation: Nothing in this AGREEMENT may restrict the public's access to Wood Island itself for recreational purposes year round, even when the Museum is not in operation and/or during off season with the exception of areas inside designated construction sites or the Museum. No fee will be charged for public recreational use of the PREMISES except as described in Section 21.</p>	
19	NOTES	NO APPRECIABLE DIFFERENCE SEEN. NOT A NPS SECTION.	
20	ACTION	REVIEW FOR NPS CONCURRENCE. RELOCATE TO SECTION 2. SEE ALSO 01-25-16 SECTION 10c.	
21	Passage	4. (M) Term:	4. Term
22	NPS	4. (M) Term: This agreement shall be effective from [date] to [date].	
23	TA-TM	<p>4. TERM: This Agreement shall be effective from the date the certificate of occupancy is issued for an initial term of five (5) years.</p>	
24	WILSSA	<p>4. TERM: This AGREEMENT shall be effective from the date the certificate of occupancy is issued for an initial term of twenty (20) years.</p>	
25	NOTES	FROM ALL APPEARANCES, THE PERIOD OF PERFORMANCE IS A LOCAL POLICY ISSUE FOR AGREEMENT BY THE TOWN COUNCIL.	
26	ACTION	COUNCIL REVIEW	

	A	B	C
27	Passage	5. (OA) Renewal:	5. Renewal
28	NPS	5. (OA) Renewal: Concessionaire will have an option to renew this agreement for [select number of renewals] consecutive [number of years] -year terms upon conditions to be mutually agreed upon at that time. Any agreement reached by the [Town/City/County/State] and Concessionaire for renewal of this agreement shall be subject to the written approval of the Secretary of the Interior or his/her delegated representative, NPS, if any significant changes to the agreement are included.	
29	TA-TM	5. RENEWAL The TOWN may extend this AGREEMENT for successive five (5) year terms upon being satisfied that the terms, conditions, and intent of this AGREEMENT are being met by WILSSA WILSSA shall mail notice to the TOWN of its intent to enter and be bound to each additional five (5) year renewal term upon the same terms and conditions of this AGREEMENT ninety (90) days prior to expiration of the then existing five (5) year term.	
30	WILSSA	5. RENEWAL WILSSA has the exclusive option of extending this agreement for 1 additional twenty (20) year period. WILSSA shall mail notice to the Town of its intent to exercise its option to renew the agreement ninety (90) days prior to expiration.	
31	NOTES	NPS OPTIONAL. THE PERIOD OF PERFORMANCE IS A LOCAL POLICY ISSUE FOR AGREEMENT BY THE TOWN COUNCIL.	
32	ACTION	COUNCIL REVIEW	
33	Passage	6. (M) Concession Payments:	6. Rent and Fees
34	NPS	6. (M) Concession Payments: [Describe the Payment structure between the (Town/City/County/State) and Concessionaire. Note: Fees charged by the concessionaire must be reasonable so as not to deny participation by the general public and must be approved by the (Town/City/County/State).]	
35	TA-TM	6. RENT AND FEES: WILSSA shall pay no rent for the use of the STATION. In addition, no other costs or fees or taxes of any kind may be levied upon WILSSA or the STRUCTURES including, but not limited to, real estate property taxes or special assessments (BY THE TOWN). This is not intended to include any sales, income, etc. taxes or fees that may be required pursuant to State or Federal law.	
36	WILSSA	6. RENT AND FEES: WILSSA shall pay no rent for the use of the STATION or STRUCTURES. In addition, no other costs or fees or taxes of any kind may be levied upon WILSSA for its use of the PREMISES including, but not limited to, real estate property taxes or special assessments. This is not intended to include any sales or income taxes or fees that may be required pursuant to State or Federal law.	
37	NOTES	SEE EXPLANATION OF PREMISES, APPURTENANCES, STRUCTURES, AND STATION	
38	ACTION	REVIEW USAGES OF ALL FOR ACCURACY AND CONSISTENCY	
39	Passage	7. (M) Concessionaire's records and documents:	
40	NPS	7. (M) Concessionaire's records and documents: With respect to all matters covered by this Agreement concessionaire's records and documents shall be subject at all times to inspection review or audit by the [Town/City/County/State]. Concessionaire will supply [Town/City/County/State] any documentation that may be needed by the (Town/City/County/State) to file required compliance reports to the Secretary of the Interior or his/her delegated representative, NPS.	
41	TA-TM	NOT ADDRESSED IN THIS DOCUMENT	
42	WILSSA	NOT ADDRESSED IN THIS DOCUMENT	
43	NOTES	MANDATORY	
44	ACTION	REVISE AGREEMENT TO INCLUDE.	
45	Passage	8. (M) Operations and Maintenance:	
46	NPS	8. (M) Operations and Maintenance: [Describe Concessionaire obligations (e.g. should offer reasonable prices, minimum hours of operation, seasonal use, courteous service, building requirements, etc.). Describe (Town/City/County/State) obligations, if any. i.e., snow plowing, trash removal, security.]	
47	TA-TM	NOT CALLED OUT AS A DEDICATED SECTION AS THE NPS MODEL REQUIRES. NECESSARY FEATURES ARE INCLUDED IN VARIOUS SECTIONS, PARTICULARLY #2 AND 10.	

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48	WILSSA	NOT CALLED OUT AS A DEDICATED SECTION AS THE NPS MODEL REQUIRES. NECESSARY FEATURES ARE INCLUDED IN VARIOUS SECTIONS, PARTICULARLY #2 AND 10.	
49	NOTES	NPS MANDATORY SECTION.	
50	ACTION	REVISE AGREEMENT TO INCLUDE SECTION AND RELOCATE APPLICABLE PASSAGES.	
51	Passage	19. (M) Assignment and Subletting.	8. No Right to Assign or Sublet
52	NPS	19. (M) Assignment and Subletting: Concessionaire shall not assign this Agreement or any interest therein, nor let or sublet the said premises or any part thereof or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person. Said let or underlet shall be grounds for termination of Agreement by the [Town/City/County/State] or possible reversion by the USA.	
53	TA-TM	8. NO RIGHT TO SUBLET: WILSSA agrees not to sublet any part of the premises without a majority vote of the full Town Council, following a public hearing, and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional service providers or other vendors to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island, subject to all the terms of this AGREEMENT including compliance with all Insurance provisions of Section 15.	
54	WILSSA	8. NO RIGHT TO ASSIGN OR SUBLET: WILSSA agrees not to assign or sublet any part of the premises without a majority vote of the full Town Council approval following a public hearing and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional service providers or other vendors to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island.	
55	NOTES	NO APPRECIABLE DIFFERENCE SEEN.	
56	ACTION	REVIEW FOR NPS CONCURRENCE.	
57	Passage	15. (MA) Maintenance and Repair.	9. Maintenance of Structures
58	NPS	15. (MA) Maintenance and Repair: The [Concessionaire and/or [Town/City/County/State]] shall at its sole cost and expense maintain the assigned property in good condition and perform such repairs that become necessary from time to time during the term of this agreement and any renewals hereof as set forth herein.	
59	TA-TM	9. MAINTENANCE OF STRUCTURES: During and throughout the term of this agreement, WILSSA shall, at its own expense and at no cost or expense to the TOWN, maintain the STRUCTURES in a safe and orderly manner. A 20-year PRESERVATION AGREEMENT describing maintenance and related conditions for the exterior of the STATION (Exhibit C, "Preservation Agreement") has been entered into by the TOWN as Grantor and the State of Maine as Grantee. . WILSSA, at no expense to the TOWN, must maintain the exterior of the STATION in accordance with that Agreement on behalf of the TOWN.	
60	WILSSA	9. MAINTENANCE OF STRUCTURES: During and throughout the term of this agreement, WILSSA shall, at its own expense and at no cost or expense to the TOWN, maintain the STRUCTURES in a safe and orderly manner. A 20-year Preservation Agreement describing maintenance and related conditions for the exterior of the STATION (Exhibit C, "Preservation Agreement") has been approved by the designee of the National Park Service and entered into by TOWN as Grantor and the State of Maine as Grantee. That Agreement allows for TOWN to seek other parties to pay for the maintenance costs of the STATION exterior. WILSSA shall maintain the exterior of the STATION in accordance with that Agreement on behalf of the TOWN.	
61	NOTES	NO APPRECIABLE DIFFERENCE SEEN. SEE PREMISES ET AL DEFINITIONS.	
62	ACTION	REVIEW FOR NPS CONCURRENCE.	
63	Passage	12. (MA) Historic Properties.	10. Restrictions on Use and Activities
64	Passage	(MA) [restrictions and environmental and usage]	
65	Passage	13. (MA) Alterations and Improvements.	
66	NPS	(MA) [SPECIFICALLY ENUMERATE any restrictions and environmental and usage conditions which affect the property. [i.e., asbestos, lead paint, prohibition on digging in the soil, restricted use of ground water, historic property, archeological covenants, etc., and how they may effect the concessionaire's operation. For example: If there are ground water restrictions on the property, words like "Concessionaire is specifically prohibited from using ground water to irrigate the ball fields."]	

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67	TA-TM	<p>10. RESTRICTIONS ON USE AND ACTIVITIES:</p> <p>During and throughout the term of this Agreement, the use, occupancy and activity of WILSSA, all persons holding by or through WILSSA and all persons who come upon the premises with the consent of the WILSSA are restricted as follows:</p> <p>a. Permitted use. No part of the STRUCTURES may be used for any purpose other than as described in this Concession Agreement.</p> <p>b. Hazardous use. No part of the STRUCTURES may be used or occupied for any purpose that is extra hazardous on account of fire, explosion, or toxic or radioactive emission or contamination.</p> <p>c. Environmental protection. All activities in or on the STRUCTURES and all uses to which any part of the STRUCTURES are put must comply in all material respects with Federal, State and local environmental protection statutes, laws, rules and regulations. WILSSA must not discharge, nor permit or suffer to be discharged, on or into the ground any substance that may endanger or pollute the groundwater supply in any material respect. WILSSA shall promptly execute and comply in all material respects with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State, and Local governments having jurisdiction over said premises for the correction, prevention, and abatement of pollution and use of the premises during the term of this Agreement and any renewal thereof.</p> <p>d. Historic Property: The Wood Island Life Saving Station STRUCTURES are deemed to be historic (Exhibit D, "Determination of Eligibility") and WILSSA will adequately ensure the preservation of the historic STRUCTURES per the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building. Also in accordance with that Preservation Agreement, any proposed construction, alteration, remodeling, changes of color or surfacing or any other change that would affect the structural integrity, appearance, cultural use, or archeological value of the property requires express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed changes to the property to the Town simultaneously to its submittal for approval to the Director of the Maine Historic Preservation Commission.</p>	
68	WILSSA	<p>10. RESTRICTIONS ON USE AND ACTIVITIES:</p> <p>During and throughout the term of this AGREEMENT, the use, occupancy and activity of WILSSA, all persons holding by or through WILSSA and all persons who come upon the premises with the consent of the WILSSA are restricted as follows:</p> <p>a. Permitted use. No part of the PREMISES may be used for any purpose other than as described in this CONCESSION AGREEMENT.</p> <p>b. Hazardous use. No part of the PREMISES may be used or occupied for any purpose that is extra hazardous on account of fire, explosion, or toxic or radioactive emission or contamination.</p> <p>c. Environmental protection. All activities on the PREMISES and all uses to which any part of the PREMISES is put must comply in all material respects with Federal, State and local environmental protection statutes, laws, rules and regulations, subject to WILSSA's right to contest the applicability thereof, during which contest WILSSA may not be deemed in non-compliance. WILSSA must not discharge, nor permit or suffer to be discharged, on or into the ground any substance that may endanger or pollute the groundwater supply in any material respect.</p> <p>WILSSA shall promptly execute and comply in all material respects with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State, and Local governments having jurisdiction over said premises for the correction, prevention, and abatement of pollution and use of the premises during the term of this Agreement and any renewal thereof.</p> <p>d. Historic Property: The subject property is deemed to be historic (Exhibit D, "Determination of Eligibility") and WILSSA will adequately ensure the preservation of the historic property per the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building. Also in accordance with that Preservation Agreement, any proposed construction, alteration, remodeling, changes of color or surfacing or any other change that would affect the structural integrity, appearance, cultural use, or archeological value of the property requires express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed changes to the property to the TOWN simultaneously to its submittal for approval to the Director of the Maine Historic Preservation Commission.</p>	
69	NOTES	REMOVING AN EXPRESSION OF WILSSA'S RIGHT TO CONTEST WOULD SEEM TO LEAD TO INVOLUNTARY SERVITUDE. SUBPARA d HAS AN NPS SECTION (#12). LAST PARA ON ALTERATION DOES, AS WELL (#13)	
70	ACTION	RELOCATE LANGUAGE TO CORRECT NPS SECTION NUMBER. REVIEW LANGUAGE FOR NPS CONCURRENCE.	

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71	Passage	16. (M) Inspection of Concession Areas:	11. Inspection
72	NPS	16. (M) Inspection of Concession Areas: Concessionaire shall allow the [Identify Title of Position] representing the [Town/City/County/State]. or his designee and/or the Secretary of the Interior's designated representative, NPS, at any and all reasonable times to inspect any facility operated under this Agreement.	
73	TA-TM	11. INSPECTION: The National Park Service, and the State Historic Preservation Officer, and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection for compliance upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the TOWN'S public safety personnel, including Fire and Police, have the right to enter the structures at any time to perform inspections or undertake any activities within their respective functions and jurisdictions.	
74	WILSSA	11. INSPECTION: The National Park Service, and the State Historic Preservation Officer, and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection for compliance upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the Town's public safety personnel, including Fire and Police, have the right to enter into the STATION at any time to perform inspections or undertake any activities within their respective functions and jurisdictions.	
75	NOTES	NO ISSUE SEEN.	
76	ACTION	NONE	
77	Passage	23. (M) Surrender: Waste:	12. Surrender.
78	NPS	23. (M) Surrender: Waste: Concessionaire agrees that upon expiration of this Agreement or earlier termination thereof, it shall surrender the assigned premises to the [Town/City/County/State] in as good or better condition as they were in at the time of execution of this document, ordinary wear excepted.	
79	TA-TM	11. INSPECTION. <i>The National Park Service and the State Historic Preservation Officer, and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection for compliance upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the TOWN'S public safety personnel, including Fire and Police, have the right to enter the structures at any time to perform inspections or undertake any activities within their respective functions and jurisdictions.</i> Surrender. At the expiration of the initial term or subsequent renewal terms of this AGREEMENT, WILSSA shall surrender the STATION to TOWN with all buildings, structures, and other improvements thereon.	
80	WILSSA	12. SURRENDER. At the expiration of the initial term or subsequent renewal term of this AGREEMENT, WILSSA shall surrender the STATION to TOWN with all buildings, structures, and other improvements thereon.	
81	NOTES	NO ISSUE SEEN.	
82	ACTION	NONE	
83	Passage	13. (MA) Alterations and Improvements:	ALSO SEE SECTION 12, ABOVE & 13 FOLLOWING
84	NPS	13. (MA) Alterations and Improvements: [Proposed alterations and improvements shall be described in agreement.] Concessionaire may not make alterations or improvements to the assigned premises without written consent of the [Identify Title of Position] representing the [Town/City/County/State]. Such written consent will not be unreasonably withheld or delayed. Further define [other Titles of Positions] representing the [Town/City/County/State] if necessary for approval. If structural changes are required, the [determine whether [Town/City/County/State] or Concessionaire] shall arrange for and supervise all necessary construction work and be responsible for all costs associated with providing the changes. (If applicable), All construction work must comply with the Historic Properties section of this agreement.	
85	Passage	14. (MA) [disposition of real-personal property]	13. Movable structures.
86	NPS	14. (MA) [This Agreement should specifically address disposition of any real and/or personal property constructed on or affixed to the site.] Concessionaire acknowledges that the building/property is subject to the possibility of reversion with improvements without compensation to the USA should there be a material breach of noncompliance by the [Town/City/County/State] or the Concessionaire for not adhering to covenants and agreements contained within Exhibit A.	

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87	TA-TM	<p>12. MOVABLE STRUCTURES. Machines, trade fixtures and similar installations which are installed in any building, structure, or other improvement on the premises are not deemed to be part of the realty even though such installations are attached to the floors, walls, or roof of any building or structure or to outside pavements, so long as such installation can be removed without structural damage to any building, structure, or other improvement on the premises; provided, however, that if the removal of any such installation damages any part of the building, structure, other improvement, pavements or premises, WILSSA shall repair such damage and restore said building, structure, other improvement, pavements or premises to the same condition as originally existed upon the issuance of a certificate of occupancy, ordinary and usual wear and tear excepted.</p>	
88	WILSSA	<p>13. MOVABLE STRUCTURES. Machines, trade fixtures and similar installations which are installed in any building, structure, or other improvement on the premises are not deemed to be part of the realty even though such installations are attached to the floors, walls, or roof of any building or structure or to outside pavements, so long as such installation can be removed without structural damage to any building, structure, or other improvement on the premises; provided, however, that if the removal of any such installation damages any part of the building, structure, other improvement, pavements or premises, WILSSA shall repair such damage and restore said building, structure, other improvement, pavements or premises to the same condition as originally existed upon the issuance of a certificate of occupancy, ordinary and usual wear and tear excepted.</p>	
89	NOTES	NO ISSUE SEEN. SEE ALSO #10 ABOVE #13 & REPAIR AGREEMENT	
90	ACTION	REVISE TO CORRECT SECTION.	
91	Passage	3. (MA) Personal Property:	14. Personal Property.
92	NPS	<p>3. (MA) Personal Property: Concessionaire shall have use of the following personal property which shall be maintained in good working condition, subject to reasonable wear and tear. [Insert list] Upon completion/termination of this agreement, all items shall be accounted for and returned to [Town/City/County/State]. During the course of this agreement any damage to personal equipment shall be reported to [Town/City/County/State]. [If personal property is extensive, consider creating an Exhibit which would list any personal property being assigned to Concessionaire (e.g. furniture, sports fixtures, kitchen equipment etc.)]</p>	
93	TA-TM	<p>14. PERSONAL PROPERTY. Any and all personal property of every kind and nature whatsoever, whether or not attached to or installed in any building, structure, or other improvement which WILSSA places in, upon, or about the premises during the term hereof may be removed there from prior the expiration of the term of this agreement and remain the personal property of WILSSA.</p>	
94	WILSSA	<p>14. PERSONAL PROPERTY. Any and all personal property of every kind and nature whatsoever, whether or not attached to or installed in any building, structure, or other improvement which WILSSA places in, upon, or about the premises during the term hereof may be removed there from prior the expiration of the term of this agreement and remain the personal property of WILSSA.</p>	
95	NOTES	NO ISSUE SEEN.	
96	ACTION	NONE	
97	Passage	18. (OA) Insurance:	15. Insurance.
98	NPS	<p>18. (OA) Insurance: Concessionaire shall, at its own expense, provide such public liability insurance that will protect Concessionaire and the [Town/City/County/State] from all claims for damages to property and persons, including death, and particularly the use of products prepared, and/or sold, which may arise in the operation of the activities conducted under this Agreement or anyone directly or indirectly employed by Concessionaire. All policies shall name the [Town/City/County/State] as a named insured. The public liability insurance shall provide limits of not less than [insert dollar amount] for one person or occurrence. [insert dollar amount] for more than</p>	

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99	TA-TM	<p>14. INSURANCE. WILSSA shall at its sole expense during the term of this agreement maintain insurance per the specifications and minimum limits set forth herein.</p> <p>a. Commercial General Liability on an occurrence, as opposed to claims made, basis with general aggregate limit applicable per project and per location. Each occurrence limit: \$1,000,000.00 General aggregate limit: \$2,000,000.00 Products/Completed operations aggregate limit: \$2,000,000.00</p> <p>b. An additional insured provision is to apply to the TOWN and its respective officers, officials, agents, and employees on a primary, non-contributory basis.</p> <p>c. Automobile liability for owned, hired, and non-owned autos with combined single limit each accident of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its respective officers, officials, agents, and employees.</p> <p>d. If there are any employees, workers' compensation insurance to comply with the requirements of Maine statute, plus employers' liability for: Each Accident: \$100,000.00 Each Employee (disease): \$100,000.00 Policy Limit (disease): \$500,000.00</p> <p>f. If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688) commonly referenced as the "Jones Act".</p> <p>g. All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to conduct business in the STATE OF MAINE. All policies shall be so written that the Kittery Town Manager will be notified of cancellation or restrictive amendment at least ten (10) days prior to the effective date of such cancellation or amendment. A certificate of insurance from the WILSSA's insurance carrier showing at least the coverage and limits of liability specified above and the inception and expiration dates shall be filed with the Town Manager at least seven (7) calendar days before operations are begun.</p> <p>h. WILSSA agrees to require that any written Agreements between WILSSA and any of its service or material provider(s) will require the same provisions, coverages, and limits as in this Article 15. WILSSA shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA's obligations under this Article.</p>	
100	WILSSA	<p>15. INSURANCE. WILSSA shall at its sole expense during the term of this agreement maintain insurance per the specifications and minimum limits set forth herein.</p> <p>a. Commercial General Liability on an occurrence, as opposed to claims made, basis with general aggregate limit applicable per project and per location. Each occurrence limit: \$1,000,000.00 General aggregate limit: \$2,000,000.00 Products/Completed operations aggregate limit: \$2,000,000.00</p> <p>b. An additional insured provision is to apply to the TOWN and its respective officers, officials, agents, and employees on a primary, non-contributory basis.</p> <p>c. Automobile liability for owned, hired, and non-owned autos with combined single limit each accident of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its respective officers, officials, agents, and employees.</p> <p>d. If there are any employees, workers' compensation insurance to comply with the requirements of Maine statute, plus employers' liability for: Each Accident: \$100,000.00 Each Employee (disease): \$100,000.00 Policy Limit (disease): \$500,000.00</p> <p>f. If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688) commonly referenced as the "Jones Act".</p> <p>g. All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to conduct business in the STATE OF MAINE. All policies shall be so written that the Kittery Town Manager will be notified of cancellation at least ten (10) days prior to the effective date of such cancellation. A certificate of insurance from WILSSA's insurance carrier showing at least the coverage and limits of liability specified above and the inception and expiration dates shall be filed with the Town Manager at least seven (7) calendar days before operations are begun.</p> <p>h. WILSSA agrees to require that any written Agreements between WILSSA and any of its service or material provider(s) will require the same provisions, coverages, and limits as in this Article 15. WILSSA shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA's obligations under this Article.</p>	
101	NOTES	PROPERTY & CASUALTY COVERAGE NOT SPELLED OUT. TA HAS "RESTRICTIVE AMENDMENT".	
102	ACTION	REVIEW & ADDRESS.	
103	Caption	Other Terms and Conditions	

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104	Passage	17. (M) Indemnity:	16. Indemnity and Limitation of Liability
105	NPS	17. (M) Indemnity: Concessionaire hereby expressly agrees to indemnify, save and hold harmless, and defend the [Town/City/County/State] against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of such person, organization, its representatives, or employees.	
106	TA-TM	<p>15. INDEMNITY AND LIMITATION OF LIABILITY</p> <p>1. WILLISA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers, officials, agents, employees, members of boards and committees, with respect to the equipment, work and materials that WILLISA or its subcontractors, employees, agents or representatives have agreed to perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands, payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from claims arising out of or related to any act or omission of WILLISA, its agents, employees, contractors, representatives for service or materials provided, in the work and materials that WILLISA has agreed to perform and supply under this AGREEMENT. This obligation to indemnify, defend and hold harmless does not waive any defense, Immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.</p> <p>2. In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILLISA within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with TOWN, WILLISA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.</p> <p>3. The TOWN'S failure to give timely notice to WILLISA of the commencement of any such action does not relieve WILLISA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILLISA's ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILLISA or by counsel selected by WILLISA, without the approval of the TOWN, which approval may not be unreasonably withheld.</p> <p>4. The extent of WILLISA's indemnification and hold harmless is not limited by the requirements for liability insurance under this AGREEMENT.</p> <p>5. The provisions of this Article survive the termination of this AGREEMENT.</p>	
107	WILSSA	<p>16. INDEMNITY AND LIMITATION OF LIABILITY</p> <p>1. WILLISA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers, officials, agents, employees, members of boards and committees, with respect to the equipment, work and materials that WILLISA or its subcontractors, employees, agents or representatives have agreed to perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands, payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from claims arising out of or related to any act or omission of WILLISA, its agents, employees, contractors, representatives for service or materials provided, in the work and materials that WILLISA has agreed to perform and supply under this AGREEMENT. This obligation to indemnify, defend and hold harmless does not waive any defense, Immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.</p> <p>2. In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILSSA within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with TOWN, WILSSA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.</p> <p>3. The TOWN'S failure to give timely notice to WILLISA of the commencement of any such action does not relieve WILLISA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILLISA's ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILLISA or by counsel selected by WILLISA, without the approval of the TOWN, which approval may not be unreasonably withheld.</p> <p>4. The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for liability insurance under this Agreement.</p> <p>5. The provisions of this Article survive the termination of this AGREEMENT.</p>	
108	NOTES	ACRONYM ERRORS. NO ISSUE SEEN.	
109	ACTION	NONE	

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110	Passage		17. Force Majeure
111	NPS	NOT A CONSIDERATION IN THE MODEL	
112	TA-TM	<p>16. FORCE MAJEURE</p> <p>WILSSA is not liable for any loss or damage due to failure or delay in performance under this Agreement resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control <u>such as</u>, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; or unusual delay in transportation.</p>	
113	WILSSA	<p>17. FORCE MAJEURE</p> <p>WILSSA is not liable for any loss or damage due to failure or delay in performance under this AGREEMENT resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control <u>including</u>, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; or unusual delay in transportation.</p>	
114	NOTES	NO ISSUE SEEN.	
115	ACTION	NONE	
116	Passage	25. (M) Waiver:	18. Waiver
117	NPS	<p>25. (M) Waiver: Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this Agreement shall be deemed a waiver of breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this Agreement, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other</p>	
118	TA-TM	<p>17. WAIVER:</p> <p>Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, is not deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision. If any action by either party requires the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion may not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this AGREEMENT, upon any breach, are distinct, separate and cumulative and not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, may be deemed to be an exclusion of any other.</p>	
119	WILSSA	<p>18. WAIVER:</p> <p>Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, is not deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision. If any action by either party requires the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion may not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this agreement, upon any breach, are distinct, separate and cumulative and not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, may be deemed to be an exclusion of any other.</p>	
120	NOTES	NO ISSUE SEEN.	
121	ACTION	NONE	

	A	B	C
122	Passage	11. (M) Non-discrimination:	19. Non-discrimination
123	NPS	<p>11. (M) Non-discrimination: [Town/City/County/State] and Concessionaire agree to comply with all Federal laws relating to nondiscrimination in connection with any use, operation, program, or activity on or related to the previously described property, including, but not limited to:</p> <p>All requirements imposed by or pursuant to the non-discrimination regulations of the U.S. Department of the Interior (43 C.F.R. Part 17);</p> <p>Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d-1), which prohibits discrimination on the basis of race, color, or national origin;</p> <p>The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age;</p> <p>Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap;</p> <p>The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151), which requires facilities located on the property to be accessible to the physically handicapped; and</p> <p>The Americans with Disabilities Act of 1990 (42 U.S.C. 12181), which requires that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.</p>	
124	TA-TM	<p>18. NON-DISCRIMINATION:</p> <p>Within the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building, the TOWN agreed to comply with certain State and Federal laws relating to nondiscrimination on the basis of race, religion, national origin or disability. WILSSA <i>must</i> comply with those same terms and conditions.</p>	
125	WILSSA	<p>19. NON-DISCRIMINATION:</p> <p>Within the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building, the TOWN agreed to comply with certain State and Federal laws relating to nondiscrimination on the basis of race, religion, national origin or disability. WILSSA <i>shall</i> comply with those same terms and conditions.</p>	
126	NOTES	NO ISSUE SEEN.	
127	ACTION	NONE	
128	Passage	27. (M) Acknowledgement:	20. Acknowledgement
129	NPS	<p>27. (M) Acknowledgement:</p> <p>This Agreement and the obligations of the parties hereto are subject to the terms and conditions set forth in the deed from the United States of America to the [Town/City/County/State], dated , and recorded at [County] Registry of Deeds/Clerks Office at Book , Page , and the current Program of Utilization which governs the use of the assigned property. Violations of the said terms and conditions may be grounds for reversion to the United States of America, at its discretion and termination of this Agreement. Concessionaire owned personal and real property improvements associated with the real property, may be subject to seizure, without compensation, by the USA.</p>	
130	TA-TM	<p>19. ACKNOWLEDGEMENT:</p> <p>This AGREEMENT and the obligations of the PARTIES hereto are subject to the terms and conditions set forth in the Deed from the USA to the TOWN, dated the 27th day of February, 1973, and recorded at York County Registry of Deeds/Clerks Office at Book 1985, page 201, and the current Program of Utilization which governs the use of the PREMISES.</p>	
131	WILSSA	<p>20. ACKNOWLEDGEMENT:</p> <p>This AGREEMENT and the obligations of the parties hereto are subject to the terms and conditions set forth in the Deed from the USA to the TOWN, dated the 27th day of February, 1973, and recorded at York County Registry of Deeds/Clerks Office at Book 1985, page 201, and the current Program of Utilization which governs the use of the PREMISES.</p>	
132	NOTES	NO ISSUE SEEN.	
133	ACTION	NONE	
134	Passage		21. Retention of Earnings
135	NPS	NOT A CONSIDERATION IN THE MODEL	
136	TA-TM	<p>20. RETENTION OF EARNINGS:</p> <p>WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. The scheduling and marketing of authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. WILSSA <i>must</i> provide the TOWN with a schedule of all such fees prior to their implementation.</p>	

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137	WILSSA	<p>21. RETENTION OF EARNINGS:</p> <p>WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. Those activities and their fees include, but are not limited to, admissions fees, rental fees, docking and mooring fees, membership fees, merchandise sales, food and beverage sales, lodging fees and royalties. The scheduling and marketing of such authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area.</p>	
138	NOTES	"FEES CHARGED" REPEATS FROM SECTION 2.	
139	ACTION	CONSIDER MUTUALLY AGREEABLE PROVISION AND MOVE TO SECTION SECTION 6.	
140	Passage	26 (M) Termination:	22. Termination
141	NPS	<p>26. (M) Termination: This Concession Agreement shall terminate automatically upon the occurrence of any of the following events:</p> <p>a. The [Town/City/County/State] unilaterally terminates the Agreement upon [select number of days] days written notice for any cause whatsoever and specifying the date of termination.</p> <p>b. Concessionaire materially violates any provision of the Agreement. c. The expiration of the term of this Agreement or any renewal thereof. d. [Describe any conditions that may allow the Concessionaire to voluntarily terminate this agreement].</p>	
142	TA-TM	<p>21. TERMINATION</p> <p>A. TOWN may terminate this AGREEMENT if WILSSA:</p> <p>1) Is in substantial breach of a provision of this AGREEMENT.</p> <p>2) If WILSSA ceases to be an active, functioning Maine non-profit corporation registered to do business under the laws of the STATE of MAINE, and maintaining a presence at Wood Island.</p> <p>When any of the above conditions exist, TOWN may, without prejudice to any other rights or remedies of TOWN and after giving WILSSA thirty days written notice to remedy above condition and the condition has not been remedied, terminate this AGREEMENT:</p> <p>B. WILSSA may terminate this AGREEMENT if TOWN:</p> <p>1) Is in substantial breach of a provision of this AGREEMENT document.</p> <p>If the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied, terminate the AGREEMENT without penalty.</p>	
143	WILSSA	<p>22. TERMINATION</p> <p>A. TOWN may terminate this AGREEMENT if WILSSA:</p> <p>1) Is in substantial breach of a provision of this AGREEMENT.</p> <p>2) If WILSSA ceases to be an active, functioning nonprofit corporation registered to do business under the laws of the STATE of MAINE.</p> <p>When any of the above conditions exist, TOWN may, without prejudice to any other rights or remedies of TOWN and after giving WILSSA thirty days written notice to remedy above condition and the condition has not been remedied, terminate this AGREEMENT:</p> <p>B. WILSSA may terminate this AGREEMENT if TOWN:</p> <p>1) Is in substantial breach of a provision of this AGREEMENT document.</p> <p>If the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied, terminate the AGREEMENT without penalty.</p>	
144	NOTES	NO ISSUE SEEN.	
145	ACTION	NONE	
146	Passage	28. (M) Notice:	23. Notice
147	NPS	<p>28. (M) Notice: Any notice by either party to the other shall be in writing and shall be deemed to be given only if delivered personally or mailed by registered or certified mail as follows:</p> <p>[Town/City/County/State]: [Identify Title of Position] representing the [Town/City/County/State] [Name] [Address] [Town, State, Zip Code]</p> <p>Concessionaire: [Name of Concession] [Name of owner] [Address] [Town, State, Zip Code]</p> <p>Other addresses may be established as the parties hereto may designate by written notice to the other party and delivered in accordance with the provisions of this paragraph</p>	

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148	TA-TM	<p>22. NOTICE: Whenever notice is required to be given under the terms of this License, such notice must be in writing and either hand delivered or mailed by certified mail, return receipt requested: If to the WILSSA, to: Wood Island Life Saving Station Assoc. PO Box 11 Kittery Pt, ME 03905 If to TOWN, to: Town Manager Town of Kittery 200 Rogers Road Kittery, ME 03904 or to such other addresses as WILSSA or TOWN designate for themselves in the same manner.</p>	
149	WILSSA	<p>23. NOTICE: Whenever notice is required to be given under the terms of this License, such notice must be in writing and either hand delivered or mailed by certified mail, return receipt requested: If to the WILSSA, to: Wood Island Life Saving Station Assoc. PO Box 11 Kittery Pt, ME 03905 If to TOWN, to: Town Manager Town of Kittery 200 Rogers Road Kittery, ME 03904 or to such other addresses as WILSSA or TOWN designate for themselves in the same manner.</p>	
150	NOTES	NO ISSUE SEEN.	
151	ACTION	NONE	
152	Passage	20. (M) Amendment to Concession Agreement:	24. Amendment to Concession Agreement
153	NPS	20. (M) Amendment to Concession Agreement: This Agreement contains all the terms and conditions between the parties, and no alteration, amendment, or addition shall be valid unless in writing and signed by both parties with written concurrence by the Secretary of the Interior or his/her delegated representative, NPS.	
154	TA-TM	<p>23. AMENDMENT TO CONCESSION AGREEMENT: This Concession AGREEMENT contains all the terms and conditions between the parties, and no alteration, amendment, or addition is valid unless in writing and signed by WILSSA and a majority of the full Kittery Town Council. If a amendment is made, written concurrence by the Secretary of the Interior is required in compliance and accordance with the TOWN's Deed from the Federal government.</p>	
155	WILSSA	<p>24. AMENDMENT TO CONCESSION AGREEMENT: This CONCESSION AGREEMENT contains all the terms and conditions between the parties, and no alteration, amendment, or addition is valid unless in writing and signed by WILSSA and a majority vote of the full Kittery Town Council. If an amendment is made, written concurrence by the Secretary of the Interior or designee is required in compliance and accordance with the TOWN's Deed from the Department of the Interior.</p>	
156	NOTES	NO ISSUE SEEN.	
157	ACTION	NONE	
158	Passage		25. Other Items
159	NPS	NOT A CONSIDERATION IN THE MODEL	
160	TA-TM	<p>24. OTHER ITEMS: The terms of the Repair, Maintenance and Use Agreement (Exhibit B, "Agreement Two"), January 16, 2016, remains in effect throughout the duration of this CONCESSION AGREEMENT or any renewal term.</p>	
161	WILSSA	<p>25. OTHER ITEMS: The terms of the Repair, Maintenance and Use Agreement (Exhibit B, "Compromise Agreement", dated January 19, 2016), remain in effect throughout the duration of this CONCESSION AGREEMENT or any renewal term.</p>	
162	NOTES	NO ISSUE SEEN.	
163	ACTION	NONE	

	A	B	C
164	Passage	21. (M) Laws and Regulations:	26. Governing Law
165	NPS	21. (M) Laws and Regulations: Concessionaire is aware of and agrees that it will use the assigned premises so as to conform with deeded environmental and usage controls and not violate any laws, regulations and /or requirements of the United States of America and/or State of [insert state] and/or any ordinance, rule or regulation of the [Town/City/County/State] now or hereafter made, relating to the use of the premises.	
166	TA-TM	NOT INCLUDED IN THIS DOCUMENT	
167	WILSSA	26. GOVERNING LAW This AGREEMENT is governed and interpreted by Maine law.	
168	NOTES	NPS LANGUAGE MORE DEFINITIVE.	
169	ACTION	COMBINE INTO ONE PASSAGE.	
170	Passage		27. Severability of Provisions
171	NPS	NOT A CONSIDERATION IN THE MODEL	
172	TA-TM	NOT INCLUDED IN THIS DOCUMENT	
173	WILSSA	27. SEVERABILITY OF PROVISIONS If any provision or any portion thereof contained in this AGREEMENT is held unconstitutional, invalid or unenforceable by a court of jurisdiction, the remainder of this AGREEMENT shall be deemed severable, shall not be affected, and shall remain in full force and effect.	
174	NOTES	NO ISSUE SEEN.	
175	ACTION	NONE	
176	Passage		28. Captions
177	NPS	NOT A CONSIDERATION IN THE MODEL	
178	TA-TM	26. Captions: The captions to the paragraphs herein are for convenience only and are not to be deemed inclusive; the Concession AGREEMENT must be interpreted based upon its entire context.	
179	WILSSA	28. CAPTIONS: The captions to the paragraphs herein are for convenience only and are not to be deemed inclusive; the Concession Agreement must be interpreted based upon its entire context.	
180	NOTES	NO ISSUE SEEN.	
181	ACTION	NONE	
182	Passage	22. (OA) Signage:	
183	NPS	22. (OA) Signage: Concessionaire shall place no sign or advertisement upon any location of the property unless prior written approval has been granted by the [Identify title of position] representing the [Town/City/County/State], and the [identify title of position] shall have the right, without first notifying Concessionaire, to remove at the expense of Concessionaire, any sign or signs that may be erected without prior approval.	
184	TA-TM	OPTIONAL CONSIDERATION NOT INCLUDED. COVERED EXTENSIVELY IN TOWN ORDINANCE.	
185	WILSSA	OPTIONAL CONSIDERATION NOT INCLUDED. COVERED EXTENSIVELY IN TOWN ORDINANCE.	
186	NOTES	NO ISSUE SEEN.	
187	ACTION	ADD TO REVISED AGREEMENT REFERENCING TITLE 16 REQUIREMENT	
188	Passage	24. (M) Liens:	
189	NPS	24. (M) Liens: Concessionaire shall keep the assigned premises free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by Concessionaire during the term of this Agreement or any extension or renewal thereof.	
190	TA-TM	NOT INCLUDED IN THIS DOCUMENT	
191	WILSSA	NOT INCLUDED IN THIS DOCUMENT	
192	NOTES	ADDRESSED IN SEPARATE REPAIR AGREEMENT. MANDATORY FOR THIS AGREEMENT.	
193	ACTION	REVISE AGREEMENT TO INCLUDE.	

		A	B
1	KTC- WILSSA 01-25-16		TOWN ATTORNEY - TOWN MANAGER 01-16-16
	[CA] 2. USE OF PREMISES: c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The Museum may be open seasonally to the public for such periods (months, days and hours) as determined in the sole discretion of WILSSA, but is intended to be open from June 1st through August 31th of any year covered by this agreement.		[CA] 2. USE OF PREMISES: c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the public Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The public Museum must be open seasonally to the general public for such periods (months, days and hours) as determined by the agreement of WILSSA and subject to the prior approval of Town Council.
2			
3			
4	[CA] 4. TERM: This AGREEMENT shall be effective from the date the certificate of occupancy is issued for an initial term of twenty (20) years.		[CA] 4. TERM: This Agreement shall be effective from the date the certificate of occupancy is issued for an initial term of five (5) years.
5	[RA] 3. Term This AGREEMENT is effective immediately. This AGREEMENT will expire either at the end of the term of the concession agreement or any extension thereof or 20 years after the date of the certificate of substantial completion of the exterior repairs if no certificate of occupancy has been secured by WILSSA for the PREMISES in that time, whichever occurs later.		[RA] 3. Term This AGREEMENT is effective upon execution. This AGREEMENT will expire, unless extended by the mutual written agreement of the PARTIES, 20 years after the issuance of the initial building permit issued to WILSSA by the Kittery Code Enforcement Officer for work on any of the STRUCTURES.
6	[OBSERVATION]: WILSSA is obligated in the Repair Agreement to maintain the premises for 20 years, completely mitigating the Town's obligation under the Preservation Covenant with the State. To require a concurrent permission for the Concession operation of only five years amounts to involuntary servitude. A "building permit" is not a certificate of occupancy.		
7	<i>Town Code Title 16 (Building): 16.5.2.4 Permit Period.</i> <i>A permit expires if the Code Enforcement Officer determines no substantial work has been commenced within six (6) months from date of issue. A permit expires if work is not substantially complete within two (2) years from date of issue. Expired permits may be renewed upon written request and justifiable cause demonstrated to the Code Enforcement Officer's satisfaction. Written request for renewal must be made prior to the permit expiration.</i>		
8	<i>Town Code Title 16 (Occupancy): 16.5.4.1 Certificate Requirement.</i> <i>It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy has been issued by the Code Enforcement Officer, and endorsed to the effect that the proposed use of the building</i>		
9	[CA] 21. RETENTION OF EARNINGS: WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. Those activities and their fees include, but are not limited to, admissions fees, rental fees, docking and mooring fees, membership fees, merchandise sales, food and beverage sales, lodging fees and royalties. The scheduling and marketing of such authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area.		[CA] 20. RETENTION OF EARNINGS: WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. The scheduling and marketing of authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. WILSSA must provide the TOWN with a schedule of all such fees prior to their implementation.
10	[OBSERVATION]: Also something of an issue raised by NPS. It appears clear that WILSSA fee intentions are not unreasonable, subject to the question of how lodging, docking, mooring, and membership may apply.		

[CA] - Concession Agreement
[RA] - Repair Agreement

	A	B
11	<p>[RA] 7. Financial Security Package</p> <p>Before undertaking any repairs or other improvements to the STRUCTURES as permitted under the terms of this AGREEMENT and to insure the satisfactory performance and completion of such repairs and improvements, WILSSA must establish an Irrevocable Letter Of Credit (LOC) with a Maine licensed bank or other comparable security or contract such as a federal grant agreement or a state appropriation with a relevant oversight agency in an amount of not less than the projected total costs of the proposed repairs and improvements as reflected in the building permit(s). The specific amount, financial institution, form and terms of the LOC or other comparable security or contract to fund the portion of the project to be completed must be approved by the Kittery Town Manager for only the purpose of assuring the financial security package meets the intent of this requirement. The Kittery Town Manager will consider in-kind contributions as a part of the financial security package.</p>	<p>[RA] 7. Financial Security Package</p> <p>Before undertaking any repairs or other improvements to the STRUCTURES as permitted under the terms of this AGREEMENT and to insure the satisfactory performance and completion of such repairs and improvements, WILSSA must establish an Irrevocable Letter Of Credit (LOC) with a Maine licensed bank or other comparable security in an amount of not less than the projected total costs of the proposed repairs and improvements as reflected in the building permit(s). The specific amount, financial institution, form and terms of the LOC or other comparable security or contract to fund the portion of the project to be completed must be approved by the Kittery Town Manager for the purpose of assuring the financial security package meets the intent of this requirement. The Kittery Town Manager may consider in-kind contributions as a part of the financial security package.</p>
12	<p>OBSERVATION: A funding commitment from a Federal, State, or other entity is readily sufficient as part of a surety package to accord financial security. Noting that the arbiter is the Town Manager. No appreciable difference exists between "will" and "may" in the context of Town Manager decision-making authority.</p> <p>[RA] 19. MAINTENANCE OF STRUCTURES:</p> <p>During and throughout the term of this agreement, WILSSA shall, at its own expense and at no cost or expense to the TOWN, maintain the STRUCTURES in a safe and orderly manner. A 20-year Preservation Agreement describing maintenance and related conditions for the exterior of the STATION (Exhibit C, "Preservation Agreement") has been approved by the designee of the National Park Service and entered into by TOWN as Grantor and the State of Maine as Grantee. That Agreement allows for TOWN to seek other parties to pay for the maintenance costs of the STATION exterior. WILSSA shall maintain the exterior of the STATION in accordance with that Agreement on behalf of the TOWN.</p>	<p>[RA] 19. Maintenance of Structures:</p> <p>At the completion of the repairs of the exterior of the STATION and continuing throughout the duration of this AGREEMENT, WILSSA must, at its own expense and at no cost or expense to the TOWN but subject to approval of the TOWN and all applicable Town ordinances, maintain the STRUCTURES in a safe and orderly manner. A 20-year Agreement describing maintenance and related conditions for the exterior of the STATION (Exhibit B, "Preservation Agreement") has been entered into by TOWN as Grantor and the State of Maine as Grantee. WILSSA shall maintain the property in accordance with that Agreement on behalf of TOWN, subject to the TOWN's jurisdiction, supervision, and approval.</p>
13	<p>OBSERVATION: Application of Town ordinances (and Federal/State regulatory requirements, not only the Town) and Town approval is a fundamental given. WILSSA's commitment to the exterior of the STATION (main building) is derived from the Preservation Covenant between the Town and the State which holds more stringent criteria than the Town's. The TA use of "property" would expand WILSSA's obligation far in excess of any presently necessary legal requirement.</p>	
14		

NPS LETTER 021916

REVIEW

	A	B
1	Srcce	ISSUES
2	NPS	The template states: <u>Assignment and Subletting</u> : Concessionaire shall not assign this Agreement or any interest therein, nor let or sublet the said premises or any part thereof, or any right or privilege appurtenant thereto, nor permit the occupancy or use of any part thereof by any other person. Said let or underlet shall be grounds for termination of Agreement by the [Town/City/County/State] or possible reversion by the USA. Vs.
3		The agreement states: <u>No Right to Assign or Sublet</u> : WILSSA agrees not to assign or sublet any part of the premises without a majority vote of the full town Council approval following a public hearing and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional service providers or other vendors to assist in operating the station such as charter boat operators to transport visitor to and from Wood Island. The second clause is not a valid substitution for the first.
4	TA-TM	8. NO RIGHT TO SUBLET: WILSSA agrees not to sublet any part of the premises without a majority vote of the full Town Council, following a public hearing, and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional service providers or other vendors to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island, <u>subject to all the terms of this AGREEMENT including compliance with all Insurance provisions of Section 15.</u>
5	APPRVD	8. NO RIGHT TO ASSIGN OR SUBLET: WILSSA agrees not to assign or sublet any part of the premises without a majority vote of the full Town Council approval following a public hearing and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional service providers or other vendors to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island.
6	OBSV 1:	<u>Observation 1:</u> Compliance with the terms of an agreement is normally understood. Contracting for services is not assigning or subletting. Agreement would be better served in using the NPS Model language by itself and moving the contracting statement to Operations, Section 8.
7	NPS	It is suggested that the Town redraft the concession agreement starting with the concession template. "Mandatory" clauses are mandatory. "Mandatory if applicable" clauses should start with the provided clause and be adapted to fit the need, however the <u>intent</u> of the clause must be maintained. We feel this agreement surrenders all control and possession of the property to WILSSA by the Town, which is unacceptable.
8	TA-TM	<u>SEE E3 SECTION MATCH - NEITHER VERSION IS COMPLIANT WITH THE MODEL, EXCEPT FOR TA-TM VERSION SECTION NUMBERING ERROR. TWO MANDATORY MODEL PASSAGES ARE NOT INCLUDED IN THE CONCESSION AGREEMENT, BUT ARE IN THE REPAIR VERSION.</u>
9	APPRVD	
10	OBSV 2:	Concur with revising to NPS Model Section match as shown in "Passage Match". Why/how the Agreement "...surrenders all control and possession..." is not clear. Need to clarify issues and address accordingly.
11	NPS	Further, the term of the agreement is 20 years with a 20-year renewal, is too long. While the 20-year term may have been used to coincide with the preservation agreement, we feel a 10-year term with 5- or 10-year renewal periods is more appropriate.
12	TA-TM	4. TERM: This Agreement shall be effective from the date the certificate of occupancy is issued for an initial term of <u>five (5) years</u> .
13	APPRVD	4. TERM: This AGREEMENT shall be effective from the date the certificate of occupancy is issued for an initial term of <u>twenty (20) years</u> .
14	OBSV 3:	<u>Observation 3:</u> It is unclear who "we" are or what it may imply. The period of performance is a local policy decision for attention by the Town Council. Also see "TA-TM Versions – Approved Versions – Substantive Issues"

	A	B
15	NPS	The agreement intermingles the term premises and structures. The term "structures" is too broad and seems to pertain to features that exist and those that may be constructed.
16	TA-TM	This Concession Agreement is made this ____ day of _____, 2016 by and between the TOWN OF KITTEERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a Maine non-profit corporation based in Kittery Point, Maine with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", and collectively as the "PARTIES".
17		Whereas, the TOWN owns certain land totaling 1.25 acres, historic life saving STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, and found in Book 195 Page 201 of the York County Registry of Deeds. A copy of the quitclaim deed, hereinafter referred to as the "Town's Deed," is attached (Exhibit A, "Quitclaim Deed"); and
18		Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, , seawalls, and wreck pole. WILSSA expects to seek approval to construct and maintain a pier and float extending from the premises and to apply for mooring rights; and
19		1. LOCATION: The TOWN allows WILSSA to use a portion of Wood Island consisting of the Wood Island Life Saving Station and STRUCTURES which are part of the PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island, totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for public park and recreational use at all times subject to the terms and conditions contained in the TOWN's Deed, attached as Exhibit A.
20	APPRVD	This Concession Agreement is made this 25th day of January, 2016 by and between the TOWN OF KITTEERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a non-profit corporation with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", collectively as the "PARTIES".
21		Whereas, the TOWN owns certain land totaling 1.25 acres, historic lifesaving STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, found in Book 1985 Page 201 of the York Registry of Deeds. A copy of the quitclaim deed is attached (Exhibit A, "Quitclaim Deed"); and
22		Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, sea walls, and wreck pole; and
23		1. LOCATION: The TOWN does hereby allow WILSSA the use of the Wood Island Life Saving Station and STRUCTURES which are part of the PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island, totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for public recreational use at all times as described in Section 3. Use of the property is subject to the terms and conditions contained in the deed, attached as Exhibit A.
24	OBSV 4:	Observation 4: See "AGREEMENTS - Premises-Structures", attached. It does refer to structures not yet built which are part of the Repair Agreement. The Concession agreement does not apply until that Agreement is completed and occupancy permit issued.

	A	B
25	NPS	Any construction on the island other than rehabilitation of the lifesaving structure must be approved by the Town and, potentially, the NPS. Approval of significant alterations or additional buildings/structures may be subject to the National Environmental Policy Act (NEPA) and Section 106 review of the National Historic Preservation Act (106).
26	TA-TM	d. Historic Property: The subject property is deemed to be historic (Exhibit D, "Determination of Eligibility") and WILSSA will adequately ensure the preservation of the historic property per the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building. Also in accordance with that Preservation Agreement, any proposed construction, alteration, remodeling, changes of color or surfacing or any other change that would affect the structural integrity, appearance, cultural use, or archeological value of the property requires express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed changes to the property to the TOWN simultaneously to its submittal for approval to the Director of the Maine Historic Preservation Commission.
27	APPRVD	d. Historic Property: The subject property is deemed to be historic (Exhibit D, "Determination of Eligibility") and WILSSA will adequately ensure the preservation of the historic property per the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building. Also in accordance with that Preservation Agreement, any proposed construction, alteration, remodeling, changes of color or surfacing or any other change that would affect the structural integrity, appearance, cultural use, or archeological value of the property requires express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed changes to the property to the TOWN simultaneously to its submittal for approval to the Director of the Maine Historic Preservation Commission.
28	OBSV 5:	Observation 5: Concur. As noted in both Repair and Concession Agreement. No construction is intended, nor addressed per se, in the concession agreement, only ongoing maintenance and repair.
29	NPS	On the surface this agreement seems to be generally for the use station structure and for the operation of a museum. However the agreement states "the Museum may be open seasonally to the public for such periods ... as determined in the sole discretion of WILSSA." This is too permissive. The Town would have no recourse under this agreement if WILSSA chooses to NOT open the Museum. If circumstances dictate that the museum cannot be open during the desired times (ie., construction delays, major storm damage) the Town may allow WILSSA some latitude, but the Town must be involved in any decision to "not open" the facility to the public for an extended length of time.
30	TA-TM	2. USE OF PREMISES: c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the public Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The public Museum must be open seasonally to the general public for such periods (months, days and hours) as determined by the agreement of WILSSA and subject to the prior approval of Town Council.
31	APPRVD	2. USE OF PREMISES: c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The Museum may be open seasonally to the public for such periods (months, days and hours) as determined in the sole discretion of WILSSA, but is intended to be open from June 1st through August 31th of any year covered by this agreement.
32	OBSV 6:	Observation 6: Need to clarify issues and address accordingly.

	A	B
33	NPS	Whereas the fundamental purpose of this agreement is to operate a Maritime Museum that is open to the public, the Town should have the option to terminate the agreement if unforeseen circumstances preclude its opening. Similarly, throughout the agreement, public recreational use and public access to the museum should be stressed. While we recognize that a Museum with artifacts cannot be "open to the public" at all times, the land and the structure are owned by the Town and public access must be reasonably assured.
34	TA-TM	SEE REPAIR & PRESERVATION COVENANT AGREEMENTS
35	APPRVD	
36	OBSV 7:	Observation 7: The contention is that this is the case. No occupancy permit may be issued unless the Repair Agreement is complete and ready to open to the public. See "AGREEMENTS - Public-Museum", attached.
37	NPS	Similarly, if construction of other facilities is contemplated and authorized by this agreement, the Town must have control and/or oversight for their use. (i.e., If a docking facility is contemplated, will the public be allowed to use it to access the island?) If future facilities are unknown at this time, provisions to amend this agreement to include future issues should be included.
38	TA-TM	3. Free Public Access for Recreation: Nothing in this AGREEMENT may restrict the public's access to Wood Island itself for park and recreational purposes year round, even when the public Maritime Museum is not in operation and/or during off season with the exception of areas inside designated temporary construction sites or when outside the public Maritime Museum's regular operating hours. No fee can be charged for public park and recreational use of the PREMISES.
39	APPRVD	3. Free Public Access for Recreation: Nothing in this AGREEMENT may restrict the public's access to Wood Island itself for recreational purposes year round, even when the Museum is not in operation and/or during off season with the exception of areas inside designated construction sites or the Museum. No fee will be charged for public recreational use of the PREMISES except as described in Section 21.
40	OBSV 8:	Observation 8: Construction of facilities are governed under the provisions of the Repair Agreement which must be completed before occupancy permit is activating the concession agreement. ALSO SEE REPAIR & PRESERVATION COVENANT AGREEMENTS
41	NPS	Lodging is not an approved recreational use of the property.
42	TA-TM	d. Office and lodging space to support the public Museum may be provided on the second floor with limited public access, provided that such use complies with Town ordinances. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no general public access. All structures maintained by WILSSA shall comply with all applicable Municipal, State and Federal handicapped accessibility regulations, statutes and codes. The shed is expected to offer a handicapped accessible bathroom.
43	APPRVD	d. Office and lodging space to support the Museum may be provided on the second floor with limited public access. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no public access. The shed is expected to offer a handicapped accessible bathroom and storage space for a generator.

	A	B
44	OBSV 9:	<p>Observation 9: Living quarters were a part of the Lifesaving Station operation. Consider language that says it is not to operated as a Bed & Breakfast, Hotel, or Inn. Definitions from Town Code, Title 16: Bed and breakfast means a home occupation in a single-family dwelling in which lodging or lodgings with meals served before noon are offered to the general public for compensation, offering no more than six bedrooms for lodging purposes.</p> <p>Hotel means a building in which lodging, or boarding and lodging capabilities are provided for more than twenty(20) persons, and offered to the public for compensation, and in which ingress and egress to and from rooms are made primarily through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a rooming house or a motel, which are separately defined in this Section.</p> <p>Inn means a commercial place of lodging which contains a dwelling unit occupied by an owner or resident manager, which has twelve (12) or fewer guest rooms, and may include a restaurant which also serves non-guests. Rentals to the same party for more than twelve (12) weeks in a calendar year are prohibited.</p>
45	NPS	<p>"All other programs, activities and events related to or in furtherance of the purposes of the Museum:" is too broad a statement. Any commercial activity WILSSA may contemplate would be authorized by this agreement and may not be an approved recreational use. The Town (and potentially NPS) must review any "programs" in furtherance of the Museum, or at a minimum set parameters.</p>
46	TA-TM	<p>e. All other programs, activities and events related to or in furtherance of the purposes of this public Maritime Museum.</p>
47	APPRVD	<p>e. All other programs, activities and events related to or in furtherance of the purposes of the Museum.</p>
48	OBSV 10:	<p>Observation 10: Need to clarify issues and address accordingly.</p>
49	NPS	<p>In the section entitled Retention of Earnings, contemplated authorized activities listed are: admissions fees, rental fees, docking and mooring fees, membership fees, merchandise sales, food and beverage sales, lodging fees and royalties. The Town needs to understand and articulate exactly what is being contemplated by this agreement. Admission fees and rental fees are ones; that may be expected for a museum. But docking, mooring and membership fees could relate to a marina or boat club. As mentioned above, lodging is not a recreational use. Food and beverage sales may be permitted in support of the recreational public. However, a destination restaurant is not a permitted recreational use.</p>
50	TA-TM	<p>20. RETENTION OF EARNINGS: WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. The scheduling and marketing of authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. WILSSA must provide the TOWN with a schedule of all such fees prior to their implementation.</p>
51	APPRVD	<p>21. RETENTION OF EARNINGS: WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. Those activities and their fees include, but are not limited to, admissions fees, rental fees, docking and mooring fees, membership fees, merchandise sales, food and beverage sales, lodging fees and royalties. The scheduling and marketing of such authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area.</p>
52	OBSV 11:	<p>Observation 11: Need to clarify issues and address accordingly. Docking, mooring, and membership fees applicable to museum operation only.</p>

	A	B
53	NPS	What royalties are anticipated?
54	TA-TM	ALSO SEE ABOVE
55	APPRVD	
56	OBSV 12:	Observation 12: WILSSA has advised in the past that television, digital, print and media outlets interested in this project.
57	NPS	While docking facilities were contemplated in the original program of utilization, and may be required to support reconstruction of the station and the operation of a museum, the Town must define the extent of construction authorized at Wood Island. Once the Town determines the level of construction authorized, it can be compared to the POU submitted in 1972 and from there it can be determined if the POU needs to be amended and whether further environmental documentation (NEPA) or 106 review is required.
58	TA-TM	IAW REPAIR AGREEMENTS - FED/STATE/ LOCAL ORDINANCE RQMTS - PRESERVATION COVENANT
59	APPRVD	
60	OBSV 13:	Observation 13: Concur. Extent is a function of Port Authority and State application, review and approval.
61	NPS	The Town did not ask NPS to review the Wood Island Life Saving Station Repair, Maintenance and Use Agreement which is attached and referenced in the Concession agreement. However, we believe the Repair Maintenance and Use agreement should follow the format and contain the mandatory clauses listed in the concession template as that is the only form of "sub-agreement" authorized by the deed of conveyance. It should be approved by NPS. The term "structures" (especially as they relate to structures that will be constructed) must be defined. Further if this agreement authorizes WILSSA to construct structures, additional environmental and 106 review may be required. We strongly suggest that the two agreements be combined into one document. Both serve essentially the same purpose and may contradict one another once the concession agreement is rewritten.
62	OBSV 14:	Observation 14: The original intent of the process was sequentially set in three parts: 1) Hazwaste abatement (underway with Brownfield grant); 2) Rehab/restoration of the STATION and related structures by WILSSA to the point of occupancy permit (2013 & 2016 Repair Agreements); and, 3) Concession agreement for WILSSA to operate the Museum and appurtenances in accord with the deeded Program of Utilization. The present Agreements do serve those sequential activities, but not as clearly as they perhaps should. Combining Repair and Concession into one Agreement does not appear to be warranted. Ongoing maintenance and Repair after the certificate of occupancy is an obligation in the Concession Agreement.
63	NPS	It is important that the Town and WILSSA understand that Wood Island was conveyed to the Town under the Federal Property Management and Administrative Services Act of 1949, not the National Historic Lighthouse Preservation Act (NHLPA). The rules of the two programs are different and activities permitted at a "lighthouse property" may not be allowable at this property. (For example a bed and breakfast facility may be permitted at a NHLPA site, but is not considered a recreational use and is not allowable at Wood Island.)
64	OBSV 15:	Observation 15: Understood.

WOOD ISLAND LIFE SAVING STATION REPAIR, MAINTENANCE, AND USE AGREEMENT

This REPAIR, MAINTENANCE and USE AGREEMENT, hereinafter referred to as "AGREEMENT" is made and entered into this 25th day of January, 2016 by and between the Town of Kittery, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a non-profit corporation based in Kittery Point, Maine, hereinafter called the "WILSSA", collectively called "PARTIES."

WITNESSETH:

Whereas, the TOWN owns certain land, a historic lifesaving STATION and appurtenances totaling 1.25 acres, obtained by the TOWN from the United States of America, known as Wood Island Life Saving Station, and deeded to the TOWN February 27, 1973, found in Book 1985, Page 201, of the York County Registry of Deeds hereinafter referred to as the "PREMISES". A copy of said quitclaim deed is attached and hereinafter referred to as Exhibit A; and

Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, seawalls, and wreck pole; and

Whereas, Condition No. 1 of said deed sets forth that "the property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972 and amended the 27th day of November 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application;" and

Whereas, such program of utilization referenced above includes a statement that "the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on the condition of present buildings it would also be maintained as a point of interest or historic site;" and

Whereas, Condition No. 3 of said deed provides that "The property will not be sold, leased, assigned or otherwise dispose of except to another local Governmental agency..." "However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is provided in writing by the Secretary of the Interior or delegated representative"; and

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Whereas, WILSSA desires to repair or construct the structures, maintain them and use them as a Maritime Museum for the enjoyment of the public; and

Whereas, the TOWN proposes to allow the WILSSA to repair or construct the structures, maintain them and use them as a Maritime Museum for the enjoyment of the public; and

Whereas, the TOWN acknowledges that only the TOWN can fund a hazardous materials abatement of the structures and premises; the TOWN has secured \$200,000 in federal Brownfields funding; the abatement of all hazardous materials eligible for federal funding will be undertaken by TOWN with the concurrence of WILSSA in terms of planning, timing, budgeting, phasing, approach and vendor selection; and, every effort will be made by the PARTIES to create and publically advertise a scope of work as soon as practical and begin work in the spring of 2016; and

Whereas, the TOWN and WILSSA have finalized a concession agreement, as agreed by the National Park Service, that specifies the conditions under which the restored STRUCTURES will be operated for the use and enjoyment of the public by WILSSA; and

Whereas, TOWN and the Maine State Historic Preservation Office have executed a 20 year Preservation Agreement as required by the \$200,000 National Maritime Heritage grant which has been approved by National Park Service that specifies the conditions under which the restored exterior of the STATION will be maintained; and

Whereas, the legislature of the State of Maine has passed into law an appropriation for \$200,000 in funding to match the National Maritime Heritage grant and to be used for the exterior repairs of the building as soon as the hazardous materials abatement has been completed; and

Whereas, WILSSA desires to seek additional private, foundation, corporate, state and federal funding or assistance to satisfy the financing of the repairs, construction, maintenance and operation of the STRUCTURES and the TOWN agrees to promptly review, make comments to, and support applications for funding or assistance by WILSSA, or apply for such funds or assistance itself on behalf of WILSSA (such as an application for an innovative readiness training exercise from the Maine National Guard), with the expressed condition that TOWN will not pay for any funding with the exception of the hazardous materials abatement funding; and

Whereas, the TOWN agrees to allow WILSSA to create a protocol for recognizing donors and volunteers to this project; and

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Whereas, WILSSA and the TOWN agree that a nomination for National Register of Historic Places is appropriate and fitting for the historic STATION that is eligible for such listing and the TOWN agrees not to object to such a nomination and to support it; and

Whereas, Nothing in this agreement may restrict the public's access to Wood Island itself for recreational purposes year round, with the exception of areas inside designated construction sites or the maritime museum.

NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual covenants and agreements as hereinafter set forth, WILSSA agrees to undertake the repair, construction and maintenance of the STRUCTURES and the TOWN agrees to allow WILSSA to repair or construct and maintain the STRUCTURES subject to all the terms and conditions of this AGREEMENT.

1. Exclusive Authority to Repair and Construct Structures

The TOWN does hereby allow WILSSA to repair or construct the STRUCTURES. The TOWN agrees not to award contracts or work to any other individual or entity, including itself, during the term of this AGREEMENT regarding the STRUCTURES, including, but not limited to, their repair, maintenance or use and the design, scheduling and execution of same without the written approval of WILSSA.

2. Improvements to Inure to the TOWN

Improvements to the STRUCTURES as undertaken, worked on and completed by WILSSA become the sole property of the TOWN.

3. Term

This AGREEMENT is effective immediately. This AGREEMENT will expire either at the end of the term of the concession agreement or any extension thereof or 20 years after the date of the certificate of substantial completion of the exterior repairs if no certificate of occupancy has been secured by WILSSA for the PREMISES in that time, whichever occurs later.

4. Payments, Fees and Royalties

There will be no fee or tax paid by WILSSA to the TOWN or any other party for this AGREEMENT or for any matters covered by this AGREEMENT. In addition, the TOWN will impose no other costs of any kind upon WILSSA or the PREMISES during the term of this AGREEMENT including, but not limited to, real estate property taxes or special assessments.

No funds raised by WILSSA will become the property of the TOWN except in accordance with Article 17 or 18 of this Agreement. WILSSA may create and retain any royalties or payments for the use of images and descriptions of the STATION or its activities related to repairing, maintaining or operating the STATION.

5. WILSSA's and TOWN'S Records and Documents / Annual Report of Activities

With respect to all matters covered by this AGREEMENT, WILSSA'S records and documents are subject at reasonable times to inspection, review or audit by the TOWN. With respect to all matters covered by this AGREEMENT, the TOWN'S records and documents are subject at reasonable times to inspection, review or audit by WILSSA. WILSSA must provide to the TOWN a regular report of activities on an annual basis due no later than the execution date of this AGREEMENT. This report must include milestones reached, approximate contract and volunteer hours expended, funds raised, funds expended, and forward looking estimates of the tasks ahead. TOWN may use this report as it wishes, including using it in whole or in part to satisfy any reporting requirements regarding Wood Island with the National Park Service.

6. Licenses and Permits

All necessary licenses and/or permits to undertake repairs to or construction of the STRUCTURES must be obtained by WILSSA from the appropriate TOWN, State, and Federal offices. Any licenses, leases (such as a submerged lands lease with the State of Maine for the pier) or permits that require the owner of the property, rather than WILSSA, to be the applicant or signatory will be prepared by WILSSA in consultation with the TOWN and approved by the TOWN promptly. All fees for TOWN licenses, leases and/or permits and inspections will be waived for work authorized by this AGREEMENT. Consent for the issuance of any TOWN permits or permissions must not be unreasonably withheld.

7. Financial Security Package

Before undertaking any repairs or other improvements to the STRUCTURES as permitted under the terms of this AGREEMENT and to insure the satisfactory performance and completion of such repairs and improvements, WILSSA must establish an Irrevocable Letter Of Credit (LOC) with a Maine licensed bank or other comparable security or contract such as a federal grant agreement or a state appropriation with a relevant oversight agency in an amount of not less than the projected total costs of the proposed repairs and improvements as reflected in the building permit(s). The specific amount, financial institution, form and terms of the LOC or other comparable security or contract to fund the portion of the project to be completed must be approved by the Kittery Town Manager for only the purpose of assuring the financial security package meets the intent of this requirement. The Kittery Town Manager will consider in-kind contributions as a part of the financial security package.

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8. Repair

WILSSA will select, arrange, design, schedule and supervise any and all aspects of the restoration of the STRUCTURES including all construction and finish work. TOWN will secure WILSSA's concurrence in terms of planning, timing, phasing, design, budgeting, approach, and vendor selection regarding the hazardous materials abatement.

9. Inspection of Structures

The National Park Service, and the State Historic Preservation Officer and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection of the STRUCTURES covered by this AGREEMENT upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the TOWN's public safety personnel including Fire and Police, have the right to enter into the structures at any time to perform inspections or undertake any activities within their respective functions and jurisdictions.

10. Other Terms and Conditions

A. Indemnity and Limitation of Liability

1) WILSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers, officials, agents, employees, members of boards and committees, with respect to the equipment, work and materials that WILSSA or its subcontractors, employees, agents or representatives have agreed to perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands, payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from claims arising out of or related to any act or omission of WILSSA, its agents, employees, contractors, representatives for service or materials provided, in the work and materials that WILSSA has agreed to perform and supply under this AGREEMENT, or by reason of any suit or claim for royalties, license fees, or infringement of copyright or patent rights arising, or alleged to have risen, from WILSSA'S performance under this AGREEMENT. This obligation to indemnify, defend and hold harmless does not waive any defense, immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.

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2) In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILSSA within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with the TOWN, WILSSA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.

3) The TOWN'S failure to give timely notice to WILSSA of the commencement of any such action does not relieve WILSSA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILSSA'S ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILSSA or by counsel selected by WILSSA without the approval of the TOWN, which approval may not be unreasonably withheld.

4) The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for liability insurance under this AGREEMENT.

B. Force Majeure

WILSSA is not liable for any loss or damage due to failure or delay in performance under this AGREEMENT resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control such as, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; unusual delay in transportation.

11. Insurance

A. Coverage and Limits

Once construction begins on the structures and thereafter, WILSSA shall at its sole expense maintain insurance per the specifications and minimum limits set forth herein.

1) Commercial General Liability on an occurrence, as opposed to claims made, basis with general aggregate limit applicable per project and per location.

Each occurrence limit:.....\$1,000,000.00

General aggregate limit:.....\$2,000,000.00

Products/Completed operations aggregate limit:.....\$2,000,000.00

An additional insured provision is to apply to the TOWN and its respective officers, officials, agents, and employees on a primary, non-contributory basis.

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2) Automobile liability for owned, hired, and non-owned autos with combined single limit each accident of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its respective officers, officials, agents, and employees.

3) If there are any employees, workers' compensation insurance to comply with the requirements of Maine statute, plus employers' liability for:

Each Accident:.....\$100,000.00

Each Employee (disease):.....\$100,000.00

Policy Limit (disease):.....\$500,000.00

4) If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688) commonly referenced as the "Jones Act".

5) All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to conduct business in the State of Maine. All policies shall be so written that the Kittery Town Manager will be notified of cancellation at least ten (10) days prior to the effective date of such cancellation. A certificate of insurance from WILSSA's insurance carrier showing at least the coverage and limits of liability specified above and the inception and expiration dates shall be filed with the Town Manager at least seven (7) calendar days before operations are begun.

6) WILSSA agrees to require that any written Agreements between WILSSA and any of its service or material provider(s) will require the same provisions, coverages, and limits as in this Article 11. WILSSA shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA'S obligations under this Article.

7) The TOWN will use its best effort to include WILSSA as an insured party in any agreement with the Abatement Contractor.

12. Amendment to AGREEMENT

This AGREEMENT contains all the terms and conditions between the parties, and no alteration, amendment, or addition to this agreement is valid unless in writing and signed by the WILSSA and a majority vote of the full TOWN COUNCIL.

13. Governing Law

This AGREEMENT is governed and interpreted by Maine law.

14. Liens

WILSSA shall keep the facilities free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by WILSSA during the term of this AGREEMENT or any extension or renewal thereof.

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15. Waiver

No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision.

16. Dispute Resolution

Any dispute between the parties arising out of or relating to this AGREEMENT must be resolved in accordance with this Article. Any party may give written notice of a dispute arising out of or related to this Agreement to the other party in person or by certified mail, return receipt requested. The parties must attempt to resolve the matter through informal communication or negotiation for a period of thirty (30) days from the date of receipt of notice by the last party to receive notice. If the dispute has not been resolved within thirty (30) days, either party may serve written notice on the other party of a request for mediation. If the parties mutually agree to mediation, the mediation must be conducted in Maine by a mediator mutually agreeable to the parties, must not exceed one full day or two half days in length, and must be completed within forty five (45) days from the date of receipt of notice of a request for mediation by the last party to receive notice. In the event that the parties are unable to agree on a mediator within thirty (30) days, or to resolve the dispute through mediation within 45 days, the dispute may be submitted to arbitration with the written concurrence of both PARTIES in accordance with the procedures of the Maine Uniform Arbitration Act, 14 M.R.S. §5927 et seq. Nothing in this provision precludes either party from seeking all available legal or equitable remedies following mediation if it is held and arbitration is not agreed to by both PARTIES.

17. Termination by TOWN/ WILSSA for Cause

A. TOWN may terminate this AGREEMENT if WILSSA:

- 1) Fails to provide timely reports of activities to the TOWN as required by this AGREEMENT.
- 2) Is in substantial breach of this AGREEMENT.
- 3) This AGREEMENT may also be terminated by the TOWN in the event that WILSSA ceases to be an active, nonprofit corporation registered to do business under the laws of the State of Maine.

When any of the above conditions exist, the TOWN may, without prejudice to any other rights or remedies of the TOWN and after giving WILSSA thirty (30) days written notice to remedy above condition and the condition has not been remedied within 30 days of such notice, terminate this AGREEMENT and may:

SSR
1/26/16

- 4) Take possession of all improvements made by WILSSA;
- 5) Maintain the work by whatever reasonable method TOWN may deem expedient using funds available through an Irrevocable Letter Of Credit or other comparable security as referred to in Article 7; or

B. WILSSA may terminate this AGREEMENT if the TOWN:

- 1) Is in substantial breach of this AGREEMENT.

When any of the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied within 30 days of such notice, terminate the AGREEMENT without penalty and may revoke the Letter of Credit or Other Comparable Security.

18. Voluntary Termination

If there is significant damage to the STRUCTURES from fire (including arson), flood, lightning, wind, wave or any act of God beyond the WILSSA'S control during the course of this AGREEMENT, WILSSA will estimate the cost of the damage. If those costs exceeded 75% of the cost of replacement of any one of the STRUCTURES so damaged or portion thereof that WILSSA is unable or unwilling to repair at their own expense, WILSSA reserves the right to terminate this contract without penalty.

If, in the event of damage to the structures as described above, the TOWN will inquire of WILSSA if WILSSA intends to exercise its right of voluntary termination. WILSSA will answer such an inquiry from the TOWN, when notified, within sixty 60 days and if planning to repair the damage at its own expense will provide a plan of work with timetable to complete the repairs. The TOWN will accept the plan of work and timetable under the same terms and conditions as are in this AGREEMENT.

If WILSSA chooses voluntarily to terminate this AGREEMENT for the reasons stated, any funds available in the Letter of Credit or other comparable security must be released to the TOWN to be used to help remedy the damage and maintain the property. Any funds remaining from the Letter of Credit or other comparable security after a remedy of the damages and maintenance of the property must be returned to WILSSA.

19. Maintenance of Structures:

At the completion of the repairs of the exterior of the STATION and continuing throughout the duration of this AGREEMENT, WILSSA must, at its own expense and at no cost or expense to the TOWN, maintain the STRUCTURES in a safe and orderly manner.

SSR
1/26/16

A 20-year Agreement describing maintenance and related conditions for the exterior of the STATION (Exhibit B, "Preservation Agreement") has been approved by the designee of the National Park Service and entered into by the TOWN as Grantor and the State of Maine as Grantee. That Agreement allows for TOWN to seek other parties to pay for the maintenance costs of the Agreement. WILSSA shall maintain the property in accordance with that Agreement on behalf of TOWN.

20. Acknowledgement: Deed Terms and Conditions

This AGREEMENT and the obligations of the parties hereto are subject to the terms and conditions set forth in the deed from the United States of America to the TOWN, dated February 27, 1973, and recorded in the York County Registry of Deeds at Book 1985 Page # 201, and the current Program of Utilization referenced in this AGREEMENT.

21. Assignment

WILSSA may not assign or otherwise transfer in any other way to any party or individual its rights, duties or obligations under this AGREEMENT, either in whole or in part without the prior written consent of the majority vote of the full Town Council unless specified in the CONCESSION AGREEMENT.

22. Notice

Any notice required or permitted to be given by either party hereto to the other is deemed to have been duly given when delivered personally or otherwise actually received after mailing by certified mail, return receipt requested, or by reputable overnight courier or by facsimile (with confirmation of receipt), addressed as follows:

To TOWN:
TOWN MANAGER
200 ROGERS ROAD
KITTERY, ME 03904

To WILSSA:
WOOD ISLAND LIFE SAVING STATION ASSOC.
P.O. BOX 11
KITTERY POINT, ME 03905

Other addresses may be established as the parties hereto may designate by written notice to the other party and delivered in accordance with the provisions of this article.

24. Rescission and Supersession

The Agreement between TOWN and WILLSSA, dated October 18th, 2013, and all amendments thereto are superseded and rescinded as from the effective date of this AGREEMENT.

SSR
1/26/16

25. Severability of Provisions

If any provision or any portion thereof contained in this AGREEMENT is held unconstitutional, invalid or unenforceable by a court of jurisdiction, the remainder of this AGREEMENT shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, the TOWN has authorized its Town Manager representing the TOWN to sign this AGREEMENT and WILSSA has approved the AGREEMENT and signed as of the date first noted above.

TOWN, by: _____

Nancy Colbert P.H., Town Manager per Town Council vote 1/25/16

[Name] [Title] [Address] [TOWN, State, Zip Code]

WITNESS: _____

WILSSA, by: _____

President, P.O. Box 11 Kithy P4 ME 03905

[Name] [Title] [Address] [TOWN, State, Zip Code]

WITNESS: _____

EXHIBIT A. Quitclaim Deed

EXHIBIT B. Preservation Agreement



TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

WORKSHOP 6:00 pm

The Town Council will meet with the Town Manager and WILSSA to discuss the Wood Island agreements.

March 28, 2016

Council Chambers

Kittery Town Council
Regular Meeting
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes – 3/14/16 regular meeting
8. Interviews for the Board of Appeals and Planning
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

(030316-1) The Kittery Town Council moves to receive a presentation from Forrest Bell of FB Environmental Associates on the 2016 Spruce Creek Sampling Proposal.

10. PUBLIC HEARINGS

a. (030316-2) The Kittery Town Council moves to hold a public hearing and hereby ordains an amendment to Title 13 Sewer Service System of the Kittery Town Code

b. (030316-3) The Kittery Town Council moves to hold a public hearing on an application from Kittery Trading Post Shops, LLC, 301 US Rt. 1, Kittery, Maine for a Victualer's License for The Lobster Pot, 301 US Rt. 1.

c. (030316-4) The Kittery Town Council moves to hold a public hearing on an application from Maine Ocean Lobster, LLC, 301 US Rt. 1, Kittery for a Victualer's License for The Pointe, 31 Badger's Island West.

d. (030316-5) The Kittery Town Council moves to hold a public hearing on an application from Maine Ocean Lobster, LLC, 301 US Rt. 1, Kittery for a Special Activity Amusement Permit for The Pointe, 31 Badger's Island West.

e. (030316-6) The Kittery Town Council moves to hold a public hearing on an application from The Dance Hall, 7 Walker Street, Kittery for a Special Activity Amusement Permit for The Dance Hall, 7 Walker Street.

11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

12. UNFINISHED BUSINESS

13. NEW BUSINESS

a. Donations/gifts received for Council disposition

b. (030316-7) The Kittery Town Council moves to approve the disbursement warrants.

c. (030316-8) The Kittery Town Council moves to approve an application from Kittery Trading Post Shops, LLC, 301 US Rt. 1, Kittery, ME for a Malt and Vinous Liquor License for The Lobster Pot, 301 US Rt. 1.

d. (030316-9) The Kittery Town Council moves to approve an application from Maine Ocean Lobster, LLC, 301 US Rt. 1, Kittery, ME for a Malt, Spirituous and Vinous Liquor License for The Pointe, 31 Badger's Island West.

e. (030316-10) The Kittery Town Council moves to approve a renewal application from Badger's Island Pizza, LLC, 30 Remicks Lane, Kittery, ME for a Malt and Vinous Liquor License for Badger's Island Pizza, 3 Island Ave.

f. (030316-11) The Kittery Town Council moves to approve amending the current Liquor License for Tributary Brewing Co., LLC, 5 Winding Brooke Ln., South Berwick, ME doing business as Tributary Brewing Co., 10 Shapleigh Road, Suite A, to extend service of beer to a permanent deck adjacent to the building.

g. (030316-12) The Kittery Town Council moves to authorize the Kittery Trading Post to hold three special events at their facility for their 2016 "Summer Concert Series" from 6:00 pm to 9:00 pm on August 5th, 19th and 26th.

h. (030316-13) The Kittery Town Council moves to authorize the Kittery Trading Post to hold a special event on June 11, 2016, until approximately 7:00 pm, to allow the State of Maine Inland Fisheries and Wildlife to hold its Moose Hunting Lottery.

i. (030316-14) The Kittery Town Council moves to authorize Bob's Clam Hunt to hold a special event under a tent on the lawn of the Kittery Trading Post on Thursday, June 9th between the hours of 5:00 pm and 9:00 pm to celebrate the 60th Anniversary of Bob's Clam Hut.

j. (030316-15) The Kittery Town Council moves to authorize the Kittery Fire Station Association to post road signs at locations in the community to advertise the Annual 5K Road Race on Saturday, May 21st and Sunday May 22nd, 2016, and to hang a banner across Rogers Road advertising the 5K Road Race and a banner on York Hospital's outside wall on the corner of Walker Street and Route 1 to advertise both events from May 1st through May 22nd.

k. (030316-16) The Kittery Town Council moves to appoint a Wood Island sub-committee.

l. (030316-17) The Kittery Town Council moves to appoint David Wrocklage to the Parks Commission until 12/31/19.

m. (030316-18) The Kittery Town Council moves to appoint Nanci Lovett to the Conservation Commission until 12/31/19.

n. (030316-19) The Kittery Town Council moves to authorize the acceptance of funds in the amount of \$3,424.08 from USAA General Indemnity Co. and to appropriate said funds to be paid out of account #101740-68427 Expense Self-Insurance Claims, to pay the costs associated with damage to the pedestrian crosswalk signal at the intersection of Whipple Road and Woodlawn Ave occurring on February 5, 2016.

o. (030316-20) The Kittery Town Council moves to schedule a public hearing in accordance with 6.09 (4) of the Kittery Town Charter to transfer appropriations between accounts for union increases for salaries/wages and benefits.

p. (030316-21) The Kittery Town Council moves to sign a Certificate of Settlement in accordance with 36 M.R.S. §763, discharging Nancy Colbert Puff as Tax Collector from further liability or obligation to collect the balance due for the taxable years 2006-2016.

q. (030316-22) The Kittery Town Council moves to re-commit the 2006–2016 taxes to Carol Granfield.

r. (030316-23) The Kittery Town Council moves to appoint the election clerks for the ensuing two years (May 2016-2018) as nominated by the local Democratic and Republican Committees.

s. (030316-24) The Kittery Town Council moves to discuss providing Fort Foster stickers to School employees.

14. COUNCILOR ISSUES OR COMMENTS

15. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson
- b. Committee Reports

16. EXECUTIVE SESSION

17. ADJOURNMENT



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

cgranfield@kitteryme.org

Carol M. Granfield
Interim Town Manager

Town Manager's Report to the Town Council March 28, 2016

1. **KCC Annex Project Management Services** – We received four proposals for project management for the KCC roof and window replacements, bathroom and flooring renovations, and misc. projects. They ranged in price from ~ \$30-\$90,000. We interviewed two firms, and chose the most qualified responder, DeStefano and Associates, Inc. from Portsmouth, for a fee of \$30,000.
2. **Emery Field Design Services** – We have released an RFP to invite landscape architect/engineering services to develop construction documents pursuant to the Land and Water Conservation grant project. Proposals are due on April 20th.
3. **Department Meetings** – I have begun to meet with each department in order to provide a good understanding of their operations and will continue work with each of them as needed on current priorities.
4. **Japanese Visitors** – There has been a school-town-community partnership for the past 20 years with Aomori Prefecture in Japan. Each April Kittery hosts a delegation of students and chaperones. The students are hosted by families of Shapleigh students. The group will be arriving on Friday, April 22 and leaving on Wednesday, April 27. I have been contacted by the organizers of this group and will be meeting with them next week. Typically in the past the town has welcomed the group and hosted a dinner on Tuesday evening and also welcomed the group on the Friday. I will elaborate on what has taken place in the past and desire to have the Town Council's guidance on the town involvement. Perhaps there is a local restaurant who might sponsor the town dinner. Additionally some funding is required for the purchase of gifts for the visitors. Your involvement will be appreciated.
5. **Police Chief Selection Committee** – The committee continues to move forth with positive progress with some excellent candidates and will assist me with a recommendation in the future.
6. **Contracts** – I am in the process of working with departments to consolidate all town contracts so the Finance Director will have them all in one location. This will assist the Town Manager when considering future contracts and amendments to current contracts.
7. **Request for Information** – In an effort to streamline requests for information that the Town Clerk should have, we will be developing a form that can be submitted to the Town Clerk to provide the information requested. This will not pertain to the normal requests received by departments such as police and fire for items such as incident and accident reports. I will probably send this out as an Administrative Regulation that will outline the procedure for departments.
8. **Town Council Training Session** – I have followed up with Pamela Plumb & Associates who will conduct the training requested by the Council but have not yet finalized a date. The session would be for four hours and she has suggested a timeframe of mid-May however she may be able to conduct it sooner. I would like to discuss the Town Council's availability, perhaps on a Monday when there is no Council meeting.

9. **Town Manager Recruitment/Direction for Interim TM** – There have been varied comments pertaining to when and how the recruitment for the next Town Manager will take place. It takes some time from when a process begins, and I would suggest the Town Council discuss this and determine if it desires to send an RFP for firms to submit proposals for recruitment. Lastly, I would like some direction from the Council as to specific areas they would like me to address as I will be working primarily up to 32 hours per week, Monday – Wednesday. Your input will be appreciated. Kittery has an excellent staff of Department Heads and employees who are very talented and having been providing any assistance needed.

Respectfully Submitted,

Carol

Carol M. Granfield

1
2
3 1. Call to Order

4
5 Chairperson Beers called the meeting to order at 7:01 p.m.
6

7 2. Introductory

8
9 Chairperson Beers read the introductory.
10

11 3. Pledge of Allegiance

12
13 Chairperson Beers led those present in the Pledge of Allegiance.
14

15 4. Roll Call

16
17 Answering the roll call were Chairperson Gary Beers, Vice Chairperson Charles Denault,
18 Councilors Frank Dennett, Russell White, Jeffrey Thomson, and Judith Spiller.
19

20 5. Agenda Amendment and Adoption

21
22 Add 13q. under New Business to read as "Kittery Town Council moves to schedule a public
23 hearing to be held on March 28, 2016 to consider an amendment to Title 13, Sewer Service
24 System."
25

26 Edit Item 9b to read as "(030216-2) The Kittery Town Council moves to appoint Carol Granfield
27 as Interim Town Manager, Tax Collector, Treasurer and Welfare Director effective March 18,
28 2016 through June 30, 2016."
29

30 Agenda was adopted as amended.
31

32 6. Town Manager's Report

33
34 Town Manager Puff reviewed her written report.
35

36 Town Manager Puff suggested several ideas regarding Channel 22. This year's initiative was
37 to broaden coverage beyond governmental meetings. As a result, several broadcasts included
38 content of the USS Thresher Memorial, Athletic Fields Master Plan process, Traip Academy
39 basketball games, and school concerts. The contract with Comcast includes a provision to
40 provide one additional channel. She suggested that Channel 22 could continue broadcasting the
41 governmental meetings and the proposed new channel could be geared more toward the public.
42 She discussed this idea with Randy Buccini and the Kittery Community Center Board of
43 Directors about hosting a station within the KCC annex. She provided an estimated budget and
44 floor plan layout for this proposed station to include hiring volunteers for training. The KCC
45 Director will address the notion once the KCC annex renovations are underway.
46

47 Town Manager Puff obtained a proposal for Town Touncil training as previously requested.

Two training opportunities were provided as follows:

1. Pam Plumb, owner of Pamela Plumb & Associates, works with MMA to administer council training around the State of Maine. She provided a proposal to deliver a subset of that training in Kittery.
2. Upcoming ICMA webinar training

Town Manager Puff thanked the Town Council, former councilors George Dow, Leo Guy, Jeffery Brake, and Jeffrey Pelletier whom were instrumental in allowing her to serve as Town Manager. She thanked the staff, volunteer board members, and the community whom all helped her be a Town Manager. She expressed her gratitude and hopes to remain in contact.

Chairperson Beers noted the primary focus of requested council training would be tailored for Kittery. With consensus, he suggested to make arrangements with Ms. Plumb.

Chairperson Beers thanked Town Manager Puff for her efforts with Channel 22. He added that the Town's special revenue funds balance was over \$338,000 as of January 2016 which is derived from Comcast fees through the franchise agreement. Thus, he requested a report detailing how to access and execute those funds.

Councilor Spiller thanked Town Manager Puff for her service and voiced that her absence will be a significant loss to the Town.

7. Acceptance of Previous Minutes

Minutes 2/17/2016

Line 145 – replace “shall” with “should”

Line 231 – replace “TO MOVE AGENDA ITEM” with “TO HOLD A PUBLIC HEARING”

Line 250 – replace “justification” with “a reason”

Line 261 – replace “Grand” with “Grant”

Minutes 2/22/2016

Line 53 – replace “WILSA” with “WILSSA”

Line 65 – replace “27” with “29”

Line 67 – replace “shall” with “could”

Line 104 – replace “Pointe” with “Point”

Line 110 – replace “Brown Fields” with “Brownfields”

Line 132– add “ – None.” after “HEARINGS”

Line 171 – replace “211” with “2.11”

Page headers – replace “2016” with “2015”

Special Meeting Minutes 2/29/2016

Line 24 – replace “her” with “here”

Line 30 – replace “idividual” with “individual”

Minutes were adopted, as amended.

8. Interviews for the Board of Appeals and Planning – None.

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

a. (030216-1) The Kittery Town Council moves to receive a presentation of the FY' 15 Audit from Michael Campo from Plodzik & Sanderson.

Mr. Campo's presentation included the following statements:

- There is a new GASB summary statement which allocates state retirement liability for State employees to individual municipalities within the State.
- On Page 11, the Net Pension Liability of \$1,700,000 is a liability carried last year that did not exist in the previous audit. Under the new GASB statement, this signifies the ability to pay current liabilities. It encompasses both business type and governmental activities. It has improved from prior year and most States strive to fully fund this liability within 20-30 years. It will only reflect on full accrual basis statements.
- Mr. Campo and Kittery Financial Department worked to ensure compliance with GASB Summary Statement No. 54 since this review was six years overdue. This Statement explains that any non-standalone funds be incorporated into the general fund.
- As a result, the breakdown of the general fund balance depicted on Page 40 appears vastly different than the previous year mainly because Capital Improvement Program (CIP) funds were reported under the general fund. This change does not change how the CIP funds are maintained. This standard is commonly non-compliant across the country.
- Depicted on Page 13, the Unassigned Fund Balance was roughly \$3,500,000 which is not impacted by the School balance.
- The independent auditor's report on Page 1 identified an unmodified opinion as fairly stated in all material respects.

Councilor Dennett asked to clarify whether the non-GAAP basis of \$4,226,375 or GAAP basis of \$3,955,000 should be used when requesting bonds. Mr. Campo recommended to use the non-GAAP basis because it factors in deficit balances and reflects the Town's sole operating general fund. Mr. Campo clarified that GASB establishes standards for local and state government.

Mr. Campo thanked the Financial department for all their support to complete the audit as quickly as possible.

Councilor Dennett questioned the length of time required for the audit. Mr. Campo noted that the audit does not begin until September.

Councilor Dennett noted an incorrect zip code on Page 8. Mr. Campo had informed the Finance Director of the oversight.

Councilor Dennett asked for an explanation of the \$110,000 operating loss. Mr. Campo explained that the sewer fund is stated on a full accrual basis, thus, depreciation and long-term debt are incorporated into the operating loss. A modified accrual basis would most likely reflect an operating gain.

Councilor Dennett questioned why the report indicated the sewer department was incorporated

under the laws of the State of Maine since he believes it falls under the Town of Kittery. Mr. Campo explained that the statement followed suit with the previous auditor and he can follow up with more information on the matter.

Chairperson Beers noted it was the first audit in his experience that had no managerial issues. For that he commended the administration and Finance Director. Mr. Campo felt that is a reflection of the staff enforcing internal control measures.

b. (030216-2) The Kittery Town Council moves to appoint Carol Granfield as Interim Town Manager, Tax Collector, Treasurer and Welfare Director effective March 18, 2016 through June 30, 2016.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPOINT CAROL GRANFIELD AS INTERIM TOWN MANAGER, TAX COLLECTOR, TREASURER AND WELFARE DIRECTOR EFFECTIVE MARCH 18, 2016 THROUGH JUNE 30, 2016, SECONDED BY COUNCILOR SPILLER. ROLL CALL WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

10. PUBLIC HEARINGS

(030216-3) The Kittery Town Council moves to hold a public hearing on a three-year extension of Municipal Resources, Inc. (MRI) assessing services contract, through fiscal year 2019.

Chairperson Beers opened the floor for public hearing. Seeing none, Chairperson Beers closed the public hearing.

A MOTION WAS MADE BY COUNCILOR THOMSON TO ENTER INTO A THREE-YEAR AGREEMENT WITH MUNICIPAL RESOURCES, INC. (MRI) FOR ASSESSING SERVICES THROUGH FISCAL YEAR 2019 WITHIN THE CONDITIONS OF THE PROPOSED CONTRACT, SECONDED BY VICE CHAIRPERSON DENAULT.

Chairperson Beers confirmed to Councilor Dennett the contents of the contract.

ROLL CALL WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

11. DISCUSSION

a. Discussion by members of the public (three minutes per person).

Maryann Place reminded the public that an open house to bid farewell to Town Manager Puff will be held on Tuesday, March 15, 2016 from 4:00 – 7:00 PM at the Kittery Community Center, 120 Rogers Road, Kittery, ME. Light refreshments will be provided.

George Dow, Bartlett Road

Mr. Dow thanked Town Manager Puff for her service and expressed his excitement for her continuing involvement in the local community. He attended the Comprehensive Plan Public

Forum on Saturday, March 12, 2016 and stated the following areas topics discussed at the forum:

- Dysfunctional town council and government
- Connectivity through sidewalk design and development throughout the area
- Managing economic development to include residential, public, and commercial
- Relocation of the Rice Public Library
- Public transportation
- Public parking
- Continued improvement in schools

Mr. Dow referred to the first topic stated and made known the negative impact of the Town Council. He felt the council needs to find a common ground. The next 8-9 months is crucial for success. He asked that the Town Council reflect upon themselves both collectively and individually. Kittery residents voted on each Town Council member and he thought the constituents deserve better than what has been received in recent past. He asked whether a date has been set forth for a facilitator to begin working with the council.

Ms. Cindy L. Saklad, Kittery Finance Director, thanked Town Manager Puff for her leadership and wished her success.

David Lincoln congratulated the Council to approve the \$100,000 expenditure to hire the facilitators to update the Comprehensive Plan. He admired the community involvement of the Comprehensive Plan Public Forum. Mr. Lincoln detailed how the Comprehensive Plan Public Forum was orchestrated. He pointed out there exists an open group of roughly 25 people that are considered acquaintances of the Comprehensive Planning Board. He felt from a citizen's standpoint, the plan is continuing very well.

Karen Kalmar, Planning Board Vice Chairperson

Ms. Kalmar stated that Town Manager Puff is a consummate professional. She highlighted Town Manager Puff's qualities and skills that make it a pleasure to work with her. Ms. Kalmar felt the only uncompromising moments of her work was in an effort to withstand the best interest of Kittery. Portsmouth has won while Kittery has lost. She thanked Town Manager Puff for her service and wished success and merited respect.

Ann Grinnell, Planning Board Chairperson

Ms. Grinnell thanked Town Manager Puff for her hard work and felt it will be missed. Ms. Grinnell knew many individuals who admired and appreciated her efforts. She is confident that Town Manager Puff will be well-liked in Portsmouth. She wished Kenneth Lemont were present and affirmed the Town Council is at fault for the Town Manager Puff's resignation. There are some councilors who obey the rules and others who act as obstructionists. She hoped that the council training will help and asked that all stay focused on performing their job.

- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

Chairperson Beers responded to Mr. Dow that the arrangements for a dedicated session with Ms. Plumb for council training will be pursued and details subsequently publicized.

Chairperson Beers thanked Mr. Lincoln for his applauding words regarding the Comprehensive Plan.

Chairperson Beers echoed the plaudits of Ms. Place, Ms. Kalmar, Ms. Saklad, and Ms. Grinnell directed at Town Manager Puff on behalf of the Town Council.

Chairperson Beers addressed Ms. Grinnell's statement with belief that the Council has reached mutual understanding. Fortright steps to this nature have been taken such as by Councilor White's work on a code of ethics and instruction manual plus the planned partaking in a training session. He noted it is at times difficult to assimilate criticisms when operating under governmental procedures.

12. UNFINISHED BUSINESS – None.

13. NEW BUSINESS

a. Donations/gifts received for Council disposition.

(030216-4) The Kittery Town Council move to accept donations in the amount of \$40 from Kenneth Myron Bonnell to be deposited in account #5007 Thresher Memorial Fund.

A MOTION WAS MADE BY COUNCILOR THOMSON TO ACCEPT DONATIONS FROM KENNETH MYRON BONNELL TO BE DEPOSITED IN ACCOUNT #5007, SECONDED BY COUNCILOR WHITE. MOTION CARRIED BY VOICE VOTE 6/0/0.

b. (030116-5) The Kittery Town Council moves to approve the disbursement warrants.

Town accounts payable of \$141,029.49. Sewer account payable of \$70,837.97. Sewer account payable of \$6,852.14. School accounts payable of \$336,961.91. Second school accounts payable of \$360,833.37. Third school accounts payable of \$84,333.25. Total of all disbursement warrants of \$1,000,848.13. Councilor Dennett stated that the Town and Sewer warrants are in order. Chairperson Beers that the School warrants are in order.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR SPILLER. MOTION CARRIED BY VOICE VOTE 6/0/0.

c. (030216-6) The Kittery Town Council moves to accept the FY'15 Audit as presented.

A MOTION WAS MADE BY COUNCILOR THOMSON TO ACCEPT THE FY2015 AUDIT AS PRESENTED, SECONDED BY VICE CHAIRPERSON DENAULT. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

d. (030216-7) The Kittery Town Council moves to approve funds to be spent from the Connie Samuels Beautification Fund to purchase plants to be planted at Howell's Park, Traip Academy, Town Hall, the Naval Museum and Inspiration Park by the Garden Club

A MOTION WAS MADE BY COUNCILOR SPILLER TO APPROVE FUNDS IN THE AMOUNT OF \$156.76, TO BE SPENT FROM THE CONNIE SAMUELS BEAUTIFICATION FUND TO PURCHASE PLANTS FOR HOWELL'S PARK, TRAIPI ACADEMY, TOWN HALL, THE NAVAL MUSEUM AND INSPIRATION PARK BY THE GARDEN CLUB, SECONDED BY COUNCILOR THOMSON.

Councilor White asked where the funds are invested for producing less than 1% return and also if anyone with responsibility had the ability to find a better place to invest the funds. Chairperson Beers stated his understanding that the funds are invested in lump at best interest rates possible which are currently less than 1%. Town Manager Puff added that the funds accrue minimal interest. Councilor White felt that it is too small a return and not accomplishing the intentions.

ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

e. (030216-8) The Kittery Town Council moves to approve a renewal application from The Dance Hall, 7 Walker Street, Kittery, ME for a Malt and Vinous Liquor License for The Dance Hall, 7 Walker Street.

A MOTION WAS MADE BY COUNCILOR SPILLER TO APPROVE A RENEWAL APPLICATION FROM THE DANCE HALL FOR A MALT AND VINOUS LIQUOR LICENSE FOR THE DANCE HALL, SECONDED BY COUNCILOR THOMSON. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

f. (030216-9) The Kittery Town Council moves to approve a renewal application from Robert's Maine Grill LLC, 326 Route 1, Kittery, ME for a Malt, Spirituous and Vinous Liquor License for Robert's Maine Grill, 326 Route 1.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE A RENEWAL APPLICATION FROM ROBERT'S MAINE GRILL LLC FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR ROBERT'S MAINE GRILL, SECONDED BY COUNCILOR WHITE. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

g. (030216-10) The Kittery Town Council moves to approve a renewal application from JKrestaurants LLC, 5 Melanies Ct., Kittery, ME for a Malt, Spirituous and Vinous Liquor License for Rudders Public House, 70 Wallingford Square.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE A RENEWAL APPLICATION FROM JKRESTAURANTS, LLC FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR RUDDERS PUBLIC HOUSE, SECONDED BY COUNCILOR WHITE. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

h. (030216-11) The Kittery Town Council moves to approve a renewal application from BNKittery LLC, 74 State Road, Suite 205, Kittery, ME for a Malt, Spirituous and Vinous Liquor License for The Farm Bar & Grille, 57 State Road.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE A RENEWAL APPLICATION FROM BNKITTERY, LLC FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR THE FARM BAR & GRILLE, SECONDED BY COUNCILOR WHITE. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

i. (030216-12) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Conservation Commission to interview Nanci Lovett for her appointment to that board until 12/31/19.

A MOTION WAS MADE BY COUNCILOR SPILLER TO APPOINT CHAIRPERSON BEERS TO MEET WITH THE CHAIR OF THE CONSERVATION COMMISSION TO INTERVIEW Nanci Lovett for her appointment to that board until 12/31/2019, SECONDED BY COUNCILOR WHITE. MOTION CARRIED BY VOICE VOTE 6/0/0.

j. (030216-13) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Rice Public Library Board of Trustees to interview Doug Greene for his appointment to that board.

A MOTION WAS MADE BY CHAIRPERSON BEERS TO APPOINT COUNCILOR DENNETT TO MEET WITH THE CHAIR OF THE RICE PUBLIC LIBRARY BOARD OF TRUSTEES TO INTERVIEW DOUG GREENE FOR HIS APPOINTMENT TO THAT BOARD, SECONDED BY VICE CHAIRPERSON DENAULT. MOTION CARRIED BY VOICE VOTE 6/0/0.

k. (030216-14) The Kittery Town Council moves to appoint Brett F. Costa to the Comprehensive Plan Update Committee as a citizen representative until the committee work is completed.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPOINT BRETT F. COSTA TO THE COMPREHENSIVE PLAN UPDATE COMMITTEE UNTIL AS A CITIZEN REPRESENTATIVE UNTIL THE COMMITTEE WORK IS COMPLETED, SECONDED BY COUNCILOR WHITE. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

l. (030216-15) The Kittery Town Council moves to accept the resignation of John Carlson from the Economic Development Committee.

A MOTION WAS MADE BY COUNCILOR THOMSON TO ACCEPT THE RESIGNATION OF JOHN CARLSON FROM THE ECONOMIC DEVELOPMENT COMMITTEE WITH NOTE OF APPRECIATION, SECONDED BY VICE CHAIRPERSON DENAULT. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

m. (030216-16) The Kittery Town Council moves to accept the resignation of Patrick Trevino from the Economic Development Committee.

A MOTION WAS MADE BY COUNCILOR THOMSON TO ACCEPT THE RESIGNATION OF PATRICK TREVINO FROM THE ECONOMIC DEVELOPMENT COMMITTEE WITH NOTE OF APPRECIATION, SECONDED BY VICE CHAIRPERSON DENAULT. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

n. (030216-17) The Kittery Town Council moves to appoint Paul Lucy to the Economic Development Committee as a Citizen Representative until 12/31/16.

A MOTION WAS MADE BY COUNCILOR THOMSON TO APPOINT PAUL LUCY TO THE ECONOMIC DEVELOPMENT COMMITTEE AS A CITIZEN REPRESENTATIVE UNTIL 12/31/2016, SECONDED BY VICE CHAIRPERSON DENAULT. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

o. (030216-18) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Parks Commission to interview David Wrocklage for his appointment to that board until 12/31/19.

A MOTION WAS MADE BY COUNCILOR WHITE TO APPOINT COUNCILOR LEMONT TO MEET WITH THE CHAIR OF THE PARKS COMMISSION TO INTERVIEW DAVID WROCKLAGE FOR HIS APPOINTMENT TO THAT BOARD UNTIL 12/31/2019, SECONDED BY VICE CHAIRPERSON DENAULT. MOTION CARRIED BY VOICE VOTE 6/0/0.

p. (030216-19) The Kittery Town Council moves to approve a Pole Location Permit application from Central Maine Power Company and Northern New England Telephone Operations LLC NH, to install a new pole starting at 48 Brave Boat Harbor Road/Tenney Hill Road in a northerly direction 100 feet.

A MOTION WAS MADE BY COUNCILOR SPILLER TO APPROVE A POLE LOCATION PERMIT APPLICATION FROM CENTRAL MAINE POWER COMPANY AND NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC NH, TO INSTALL A NEW POLE STARTING AT 48 BRAVE BOAT HARBOR ROAD/TENNEY HILL ROAD IN A NORTHERLY DIRECTION 100 FEET, SECONDED BY COUNCILOR THOMSON. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 6/0/0.

q. (030216-20) Kittery Town Council moves to schedule a public hearing on March 28, 2016 to consider an amendment to Title 13, Sewer Service System.

A MOTION WAS MADE BY COUNCILOR THOMSON TO SCHEDULE A PUBLIC HEARING ON MARCH 28, 2016 TO CONSIDER AN AMENDMENT TO TITLE 13, SEWER SERVICE SYSTEM, SECONDED BY COUNCILOR WHITE. MOTION CARRIED BY VOICE VOTE 6/0/0.

14. COUNCILOR ISSUES OR COMMENTS

424 Councilor Spiller requested that a workshop be held before next Town Council regarding the
425 Wood Island agreements. It was suggested that Attorney McEachern attend and Town Manager
426 Puff provide the most current agreements to date.

427
428 Councilor Spiller noted that the Comprehensive Plan Public Forum was an impressive
429 attendance, interest and passion for the Town of Kittery. There she felt near embarrassment for
430 being a Town Councilor given all the concerns discussed. She realized it is an honor to have the
431 designation on Town Council. Several concerns were raised at the executive session on
432 November 17, 2015 and people wondered if they were directed to the Town Manager. She
433 suggested to reflect on that session to alleviate any potentially negative opinions.

434
435 Vice Chairperson Denault suggested that the Town Council discuss having a dog park which
436 may help to ease issues at the existing parks.

437
438 Vice Chairperson Denault plans to provide a report on Fort Foster passes to discuss the
439 feasibility of offering all town employees passes instead of municipal only.

440
441 At the suggestion of Councilor Thomson, Vice Chairperson Denault attended the Patrick Dorow
442 Productions: Smokey Joe's Café at the STAR Theater, Kittery Community Center, 120 Rogers
443 Road, Kittery, ME and encourages others to attend.

444
445 A donation basket for End 68 Hours of Hunger is located outside Council Chambers.

446
447 Councilor Thomson noted that the Fort Foster passes were a contract negotiated item with
448 municipal employees.

449
450 Councilor Thomson noted that Neighborhood Network Program is hosting a luncheon on
451 Monday, March 22, 2016 at the Kittery Community Center, 120 Rogers Road, Kittery, ME for
452 an introduction to their program offered through York Housing and York Hospital which is open
453 to Kittery residents that offers numerous services and resources within the community.

454
455 With regret, Councilor Thomson gave thanks to Town Manager Puff for her work.

456
457 Councilor White acclaimed the work done by the staff on the FY15 Audit.

458
459 Councilor White felt that the Comprehensive Plan Public Forum was direct, honest, and full of
460 energy. The forum was a positive forward step and the council will receive a short presentation
461 on the results of the forum in the next month.

462
463 Chairperson Beers stated that Kittery author, D. Allan Kerr, is engaging in fundraising efforts to
464 install additional commemorative markers around Kittery. He conducted a presentation to the
465 Kittery Parks Commission who agreed to have one installed in honor of General Foster to
466 replace the existing marker. The commemorative markers cost roughly \$840 each. Donations
467 can be made through Kittery Maine Improvement Foundation. Donations are tax deductible and
468 checks can be mailed to:

469 PO Box 360
470 Kittery, ME 03904

471 Memo: Historical Markers

472

473 15. COMMITTEE AND OTHER REPORTS

474

475 Superintendent of Schools, Allyn Hutton, advised that the School committee aim to conclude the
476 budget formulation on March 15, 2016 and expect materials related to the budget made publicly
477 available shortly after. Chairperson Beers concurred that they be delivered as soon as available.
478 The school budget presentation will be delivered April 11, 2016 which gives the Town Council
479 more than 3 weeks to absorb the public presentation.

480

481 Finance Director Cindy Saklad provided a communication from bond agent, Joe Cattera, that
482 indicates the Capital Improvement Program comprehensive planning efforts included for this
483 year and last are legitimate, intangible expenses that do not jeopardize bond rate.

484

485 Chairperson Beers added to Councilor Thomson's comment regarding the Neighborhood
486 Network Program that the organization has asked to present a 5-minute presentation to council
487 on March 28, 2016.

488

489 Chairperson Beers noted that Town Manager Puff's services will be missed.

490

491 All present in the Town Council meeting gave a standing ovation to Town Manager Puff.

492

493 The York River Wild and Scenic River Study Committee will be meeting at the Grant House,
494 York, ME on Tuesday, March 22, 2016 at 5:30 PM.

495

496 16. EXECUTIVE SESSION – None.

497

498 17. ADJOURNMENT

499

500 **IT WAS MOVED BY COUNCILOR THOMSON, SECONDED BY VICE**
501 **CHAIRPERSON DENAULT TO ADJOURN THE MEETING AT 8:15 P.M. ALL WERE**
502 **IN FAVOR BY A VOICE VOTE. MOTION PASSED 6/0/0.**



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: March 28, 2016
From: Norman Albert, Commissioner of Public Works
Forrest Bell, FB Environmental Associates
Subject: 2016 Spruce Creek Sampling Proposal
Councilor Sponsor: [Click here to enter text.](#)

EXECUTIVE SUMMARY

The Department of Public Works (DPW) is presenting a proposal for continued water quality analysis in the Spruce Creek watershed for 2016 from FB Environmental Associates (FBE). DPW is requesting an alternative procurement approval from the Town Council to select FBE to complete the attached scope of work and to fund the proposed sampling project.

STATEMENT OF NEED

Continuing the annual monitoring program is important to the successful continuation of a water quality assessment and bacteria source tracking study in the Spruce Creek watershed.

BACKGROUND

FB Environmental has partnered with the Town of Kittery and Maine DEP for the last ten years to help assess, monitor, and improve the bacteria-impaired waterbody with the goal of re-opening the shellfish beds which have been closed since July 2005.

FACTS BEARING ON THE EQUATION

FB Environmental is experienced in developing and implementing complex bacteria source tracking, water quality monitoring, and modeling projects. They are a regional leader in developing and implementing large-scale and targeted bacteria source tracking projects and have the staff and equipment necessary to coordinate this type of comprehensive sampling project.

CURRENT SITUATION

The Department of Public Works supports the continuation of a water quality assessment and bacteria source tracking study in the Spruce Creek watershed. The tasks in the scope of work were developed to target areas consistently identified as “hotspots” of bacteria contamination.

PROPOSED SOLUTION/RECOMMENDATION

The scope of work includes 4 tasks:

1. Bracket sampling in Chickering Creek (four sites), Mill Cove/Manson Avenue (one site), and Upper Estuary/Picott Road Stream (three sites).
2. Microbial Source Tracking at three locations in the Upper Estuary/Picott Road Stream drainage area to further pinpoint the source of bacteria by testing for bovine (cow), human, and Canada geese DNA.
3. Main Channel Analysis to include deployment of two continuous data loggers in the main channel

of the creek to determine overall water quality.

4. Reporting

The Department of Public Works is requesting an alternative procurement approval from the Town Council to select FBE to complete the attached scope of work and to fund the proposed sampling project.

RATIONALE FOR THE PROPOSED SOLUTION (INCLUDING COSTS)

While significant discoveries and improvements have been made over the last ten years in the Spruce Creek watershed, there is still more work to be done. Selecting the same consultant and continuing the annual monitoring program will ensure continuity of data and maintain a baseline from which to compare future conditions as restoration work progresses in the watershed. Furthermore, in appreciation of the strong monetary commitment to this monitoring work that the Town of Kittery has made over the last several years, FBE recommends a scope of work for 2016 with a reduced overall budget. All project funds will also count as match for the Maine DEP 319 Spruce Creek Watershed Improvement Project.

Project Budget:

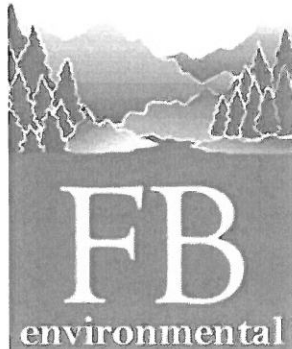
Task 1: \$3,400

Task 2: \$1,559

Task 3: \$8,471

Task 4: \$2,306

Total \$15,735



170 West Rd, Ste. 6
Portsmouth, NH 03801

97A Exchange St, Ste. 305
Portland, ME 04101

(603) 221-6699 (p)
(603) 221-6716 (f)

www.fbenvironmental.com

Nancy Colbert Puff, Town Manager
Town of Kittery
200 Rogers Road
Kittery, Maine 03904

March 7, 2016

Dear Nancy Colbert Puff:

FB Environmental Associates (FBE) is pleased to submit the attached proposal for continued water quality analysis in the Spruce Creek watershed in Kittery, Maine. We have appreciated the opportunity to work with the Town of Kittery and the Maine Department of Environmental Protection (Maine DEP) for the last ten years to help assess, monitor, and improve this bacteria-impaired waterbody with the goal of re-opening the shellfish beds. In that time, we have built strong, collaborative working relationships with the individuals involved in this project, and we are eager to continue this work to help improve the water quality of Spruce Creek. Continuing the annual monitoring program will ensure continuity of data and maintain a baseline from which to compare future conditions as restoration work progresses in the watershed. In appreciation of the strong monetary commitment to this monitoring work that the Town of Kittery has made over the last several years, we recommend a scope of work for 2016 with a reduced overall budget.

FBE, a small business with an office located in Portsmouth, NH just a few miles from the Kittery Town Hall, is considered a regional leader in bacteria source tracking and water quality monitoring projects. We have worked with multiple municipalities and state agencies on dozens of similar projects across New England, including Kittery. As a result, we have a strong knowledge of what actions are needed to ultimately improve water quality within a watershed.

If awarded a contract, I will serve as the Principal-in-Charge for this project and will be ultimately responsible for the successful completion of all project tasks. I will be assisted by FBE Project Manager, Laura Diemer, who has worked in the Spruce Creek watershed since 2009, as well as field staff from our Portsmouth office, who are familiar with the watershed. We believe that our local presence, our high level of technical expertise, and our reasonable labor costs will provide high value to the Town for successful completion of this project.

If you have any questions, I can easily be reached on my cell phone at (207) 650-7597, or via email at info@fbenvironmental.com.

Sincerely Yours,

Forrest Bell, Principal
FB Environmental Associates

2016 | BRACKET SAMPLING AND MAIN CHANNEL WATER QUALITY ANALYSIS

SPRUCE CREEK WATERSHED, KITTERY, MAINE



PREPARED BY



FB ENVIRONMENTAL ASSOCIATES

170 West Road, Suite 6

Portsmouth, NH 03801

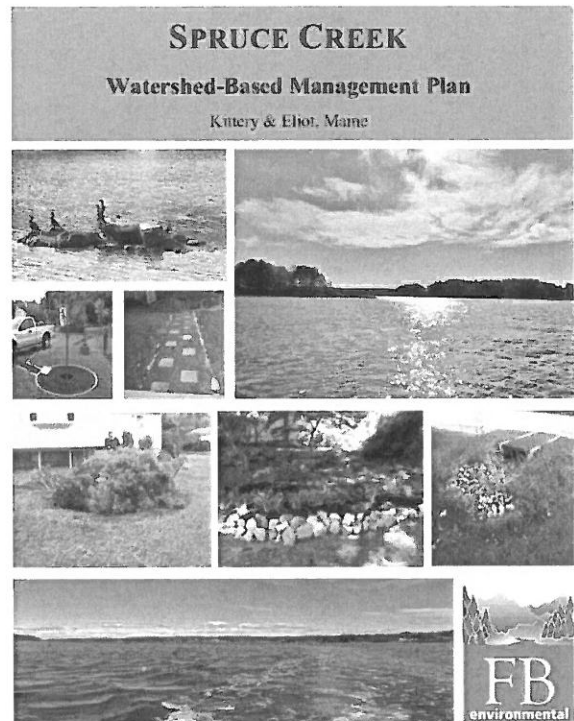
INTRODUCTION

FB Environmental Associates (FBE) was founded by Forrest Bell in 2001 to help public entities conduct comprehensive assessments of waterbodies impacted by nonpoint source pollution (NPS). Since that time, FBE has become a regional leader throughout New England in conducting large-scale and targeted bacteria source tracking and water quality monitoring projects, modeling watershed pollutant loading, developing stakeholder-driven watershed planning projects, implementing these plans through the management of watershed grants, and producing clear and concise technical reports.

We have conducted detailed assessments for more than 950 waterbodies in New England since 2001, including detailed assessments on Spruce Creek since 2005. Our firm was developed to deliver thorough scientific assessments of waters to assist public sector clients with watershed-wide efforts to restore and protect the quality of surface waters.

Since 2005, FBE has assisted the Town of Kittery and the Spruce Creek Association with identifying non-point sources of bacteria to Spruce Creek. Through these assessments and separate watershed planning projects, remediation efforts have been prioritized and specific sources of bacteria to Spruce Creek have been identified and addressed. Despite the multiple successes of previous projects, results through 2015 show that more work needs to be done in areas consistently identified as “hotspots” of bacteria. Non-point source pollution is an on-going problem that cannot be addressed through a single water quality project. Ongoing efforts are required as sources of bacteria may change over time in the watershed, with old sources being eliminated (e.g., over board discharges) and new sources emerging as infrastructure ages and population increases.

We are pleased to present our skills and qualifications to continue to assist the Town of Kittery, ME with continued water quality assessment of Spruce Creek. Spruce Creek is currently closed to shellfish harvesting and is considered impaired for bacteria and other pollutants by the Maine Department of Environmental Protection (Maine DEP). Our combination of technical expertise, on-the-ground field experience, and well-documented ability to engage municipalities make us an ideal candidate to continue to assist the Town of Kittery in addressing water quality problems in Spruce Creek. Our offices are in Portsmouth, NH and Portland, ME and are ideally situated to conduct work in Kittery.



FBE has been working with the Town of Kittery and the Spruce Creek Association since 2005 on water quality and watershed protection measures. This work has included monitoring and targeted bacteria source tracking in both coastal and freshwater bodies, as well as the successful application and implementation of four grants from Maine DEP.

PROJECT EXPERIENCE

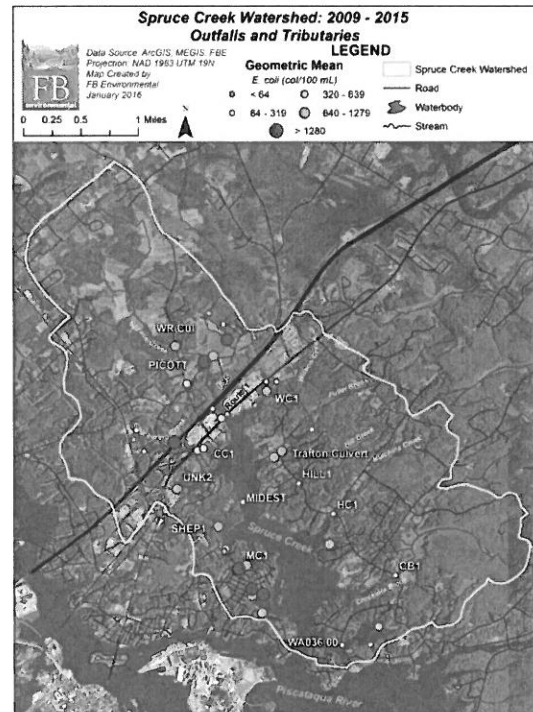
STATEMENT OF QUALIFICATIONS

FB Environmental Associates: Portsmouth, NH (603) 828-1456; info@fbenvironmental.com

Established in 2001, FB Environmental Associates is a New England-based consulting firm that specializes in directing environmental planning, assessment, monitoring, mapping, and restoration projects for a diverse array of clients. The firm's eight associates have more than 100 years of combined experience working on land and water resource projects in New England. As FBE is a small business with low overhead, we are able to provide a high-quality professional product at reasonable rates ranging from \$30 to \$111 per hour. FBE is also committed to maintaining close communications with its clients. References have indicated that the firm's greatest asset is the staff's ability to work with great attention to detail to meet the specific needs of project partners and the general public. In 2006, through an evaluation conducted by an independent research firm for the US Government, we were given an overall performance score of 95 (out of 100) by our current and past clients. Our staff professionalism and expertise ranking scored a perfect 100.

FB Environmental has worked with a wide range of clients, including the US Environmental Protection Agency, Maine Department of Environmental Protection, Piscataqua Regional Estuaries Partnership, University of Maine Cooperative Extension, Casco Bay Estuary Partnership, numerous municipalities, and several nonprofit environmental organizations and trade associations. Specific services include bacteria source tracking, water quality monitoring, water resources modeling and assessment, design and installation of Best Management Practices, riparian habitat assessments, development of Total Maximum Daily Load reports for lakes, rivers, and streams, stormwater management, nutrient management, GIS mapping and analysis, data compilation and interpretation, wetland delineation, erosion control, grant writing, and scientific report writing.

FBE is experienced in developing and implementing complex bacteria source tracking, water quality monitoring, and modeling projects. We conduct our work in a highly efficient and cost-effective manner, and we complete our work on time. We encourage reviewers to contact our references to discuss their experiences working with us, particularly working effectively with local stakeholders.



FBE has assisted the Town of Kittery with the water quality impairments in Spruce Creek since 2005, including a historical analysis of available tributary data through 2015.

SPECIFIC EXPERIENCE RELATING TO BACTERIA SOURCE TRACKING AND WATER QUALITY ANALYSIS IN SPRUCE CREEK

- A. Experience with Identifying Sources of Bacterial Pollution to Waterbodies:** FBE has become a regional leader in developing and implementing large-scale and targeted bacteria source tracking projects to identify sources of bacteria to waterbodies. We have worked with multiple municipalities throughout New England to successfully identify specific sources of bacteria to marine waters and estuaries that have the potential to cause closures in shellfish growing areas and swimming beaches (Table 1).
- B. Experience with Collection and Assessment of Water Quality Data to Determine and Manage Surface Water Pollutants:** FBE staff annually conducts multiple large and small-scale water quality monitoring projects throughout New England (Table 1). We have the staff and equipment necessary to coordinate this type of comprehensive sampling project. FBE staff has analyzed water quality data for lakes, rivers, streams, estuaries, and marine waters for more than 950 waterbodies in New England. We are experienced working with simple and complex datasets and understand how these data relate to stream processes.
- C. Experience with Water Quality and Bacteria Sources in the Spruce Creek Watershed:** FBE has conducted and managed many sampling projects for the Town of Kittery in the Spruce Creek watershed since 2005; this includes mapping, annual water quality monitoring, and bacteria hotspot identification and source tracking through bracket sampling and canine detection. We have conducted multiple bacteria source tracking investigations in the Spruce Creek watershed. This first-hand knowledge of the watershed makes us familiar with pollutant sources to Spruce Creek and other waterbodies in Kittery, and allows us to efficiently select the most effective locations and methods for future sampling efforts.
- D. Experience Identifying Appropriate Locations for Stormwater Mitigation and other Best Management Practices:** FBE works with municipalities on a daily basis and knows how to coordinate effectively. FBE staff has worked with clients to recommend and implement BMPs in more than 30 watersheds in New England. Forrest Bell, Principal of FBE, has assessed thousands of residential and commercial sites contributing polluted runoff to waterbodies in New England.
- E. Ability to Complete the Work within Required Schedules and Budget:** FBE will coordinate in a clear and professional manner with the Town of Kittery staff on behalf of the project, and will provide all reports, data, and information on schedule and within the project budget.

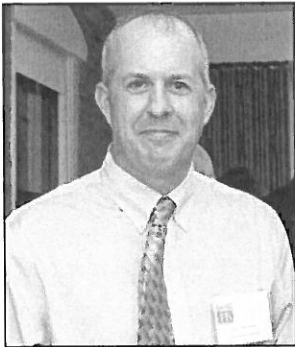
TABLE 1. Examples of completed and ongoing bacteria source tracking and water quality monitoring projects managed by FB Environmental, 2008-2015.

CLIENT	WATER QUALITY PROBLEM	WATERBODY NAME	YEAR	TYPE
Town of Salem, NH	Bacteria impairment	All Ponds	2014-15	Source Tracking
Town of North Hampton, NH	Bacteria, DO, and pH impairment	Winnicut River	2014-15	Monitoring
Boston Water and Sewer Commission	Bacteria impairments	Various outfalls	2014	Source Tracking
Town of Kittery, ME	Shellfish closures	Spruce Creek Fort Foster Beach	2008-15	Monitoring
	Bacteria impairment		2012-15	Modeling
	Beach closures			Source tracking
Town of Kennebunkport, ME	Bacteria impairment	Goose Rocks Beach	2008-09	Monitoring
	Beach closures			Modeling
				Source tracking
Town of Ogunquit, ME	Bacteria impairment	Ogunquit River Ogunquit Beach	2012-15	Monitoring
	Beach closures			Modeling
				Source tracking
Town of York, ME	Bacteria impairment	Cape Neddick River Long and Short Sands Beaches	2013	Monitoring
	Beach closures			Source tracking
Town of Waldoboro, ME	Shellfish closures	Medomak River	2014	Source tracking
City of Portland, ME	Bacteria impairment	Capisic Brook	2012	Source tracking
Cumberland County SWCD	Multiple impairments	Long Creek	2009-15	Monitoring
Town of Durham, NH	Bacteria impairment	Oyster River, College Brook	2013	Source tracking
City of Portsmouth, NH	Bacteria impairment	City-wide	2013	Source tracking
Town of North Hampton, NH	Bacteria impairment	Little River	2009-15	Monitoring
	Beach closures			Source tracking
Town of Rye, NH	Bacteria impairment	Parson's Creek	2009-15	Monitoring
	Beach closures			Source tracking
City of Laconia, NH	Bacteria impairment	Weirs Beach Oppechee Park Beach	2013-14	Source tracking
	Beach closures			
Town of Exeter, NH	Bacteria impairment	Wheelwright Creek	2012-14	Source tracking
Cumberland County SWCD	Bacteria impairment	Scarborough, ME	2010-11	Stream Monitoring
Sheepscot Valley Conservation	Bacteria impairment	Dyer River	2010-11	Source Tracking
Southern Aroostook SWCD	Bacteria impairment	Pearce Brook	2009-10	Modeling
US EPA	Bacteria impairment	Statewide in Connecticut and New Hampshire	2010-11	Effect of precipitation on bacteria levels
NH DES Beach Program	Bacteria impairment	Multiple waterbodies	2008-11	Source Tracking

PROJECT TEAM (KEY STAFF)

The Town of Kittery can expect that the work on this monitoring project will be completed by highly qualified scientists from FB Environmental Associates. Laura Diemer will act as the lead project manager and will be an active participant on all project tasks, including field work. Forrest Bell will serve as Principal-in-Charge for the project and will ensure the proper staff resources are available to provide the Town of Kittery with tools needed to complete the project.

FORREST BELL, FB ENVIRONMENTAL, OWNER AND PRINCIPAL SCIENTIST



Forrest is the founder and owner of FB Environmental. In this capacity, he oversees all projects and operations of the company. Forrest is a regional leader in managing watershed restoration and assessment projects. He has directed more than 220 successful environmental planning, assessment, monitoring, and restoration projects since 1991 for clients including federal and state natural resource agencies, municipalities, and non-profit organizations. Forrest founded FB Environmental in 2001 while assisting the Maine DEP with lake water quality assessments and TMDL report preparation for impaired lakes in Maine, and has since developed a consulting business that includes eight highly qualified staff persons. Forrest is a skilled presenter and facilitator, embracing the challenge of explaining and promoting effective water quality protection in New England communities. Forrest received his B.S. in Geography from the University of Southern Maine and completed his Master's coursework at the University of New Hampshire in the Natural Resources Management program.

LAURA DIEMER, FB ENVIRONMENTAL, PROJECT MANAGER AND MONITORING LEAD



Laura manages our lake and river water quality monitoring and assessment projects and supports our work in watershed planning, stream restoration, GIS mapping, nutrient loading modeling, wetland delineation, and climate change adaptability. Laura rejoined FB Environmental in July 2014 after completing an M.S. in Soil and Water Resource Management from the University of New Hampshire (UNH). Her research at UNH focused on understanding biogeochemical cycling of carbon and nutrients in fire-impacted boreal stream in Central Siberia. She received a B.S. in Ecology and Environmental Science from the University of Maine in 2010 and gained valuable research and writing experience through employments for the national park service, New England Organics, Wells National Estuarine Research Reserve, and the Nature Conservancy.

LAUREN BIZZARI, FB ENVIRONMENTAL, PROJECT SCIENTIST



Lauren completed the tributary sampling within the Spruce Creek Watershed in 2015 and will be assisting with this project. Lauren joined FB Environmental in May 2015. She received an M.S. in Environmental and Plant Biology in 2013 from Ohio University, where she evaluated the reintroduction success of blight-resistant American chestnut (*Castanea dentate*). She also completed a B.A. in Biology from Colby College in 2009 and returned to her alma mater in 2013 as a

lab manager for an ecological research lab. Lauren has many years of field work experience from a diverse range of research projects, including a forest management experiment in northern Wisconsin and a study of groundwater nitrogen removal on the shoreline of Cape Cod. As part of the FBE staff in our Portsmouth, NH office, Lauren has contributed to projects involving lake and stream water quality monitoring, stormwater sampling, restoration planning, invasive species control, natural resource inventories, and GIS mapping.

PROJECT SCOPE OF WORK

We believe that the following tasks are important to the successful continuation of a water quality assessment and bacteria source tracking study in the Spruce Creek watershed. These tasks were developed to target areas consistently identified as “hotspots” of bacteria contamination over the last 10 years of sampling in the watershed. Additionally, conversations with Town staff have indicated several major changes will take place near these hotspots in 2016, which may affect non-point sources of pollution to these locations. 2016 will be a crucial monitoring year in these areas to determine if changes in the watershed will impact bacteria inputs to Spruce Creek. The tasks below outline our technical approach for completing the components of the project. In appreciation of the strong monetary commitment to monitoring work that the Town of Kittery has made over the last several years, we recommend a scope of work for 2016 with a reduced overall budget. We have budgeted \$15,735 for the Scope of Work to include the following tasks (see budget detail below):

SCOPE OF WORK

TASK 1: Bracket Sampling

FB Environmental will conduct bracket sampling and analysis at three selected hotspots in the Spruce Creek watershed: Chickering Creek (four sites), Upper Estuary/Picott Road Stream (three sites), and Mill Cove/Manson Avenue (one site). This analysis will include bacteria sampling on six sampling dates (three under wet weather conditions and three under dry weather conditions). Additionally, two catch basins located upstream of the Mill Cove site will be sampled on two dates (one wet weather and one dry weather).

Chickering Creek – The downstream sampling location in this area (CC1) had the third highest overall geometric mean in 2015, with high bacteria counts in both wet and dry weather, suggesting inputs from both stormwater (including outfalls near the intersection with Interstate 95) and potentially malfunctioning septic/sewer. Historical annual geometric means also exceeded the State criterion for *E. coli*. Both canine detection (2013) and DNA analysis (2015) have indicated human fecal contamination in this area. Many of the residences in the Chickering Creek drainage are set to discontinue private septic or overboard discharges and will be connected to Town sewer beginning in spring 2016.

Mill Cove/Manson Avenue – A downstream sampling location in this area (MC1) had the highest overall geometric mean in 2015, with alarmingly-high bacteria counts in both wet and dry weather. Historically, other outfalls in this area (along Manson Avenue) have had high bacteria

counts as well. Both canine detection (2013) and DNA analysis (2015) have indicated human fecal contamination in this area. This drainage has been the focus of intense investigative efforts by both the Town and FBE since 2012, including smoke tests of the sewer and stormwater systems. In 2014, smoke tests indicated that there may be a leaky sewer connection in the area as smoke was observed coming out of stormwater catch basins during a test of the sewer system (CB 1795).

Upper Estuary/Picott Road Stream – The upper portion of the Spruce Creek estuary (PICOTT) had the second highest overall geometric mean in 2015. An unnamed tributary along Picott Road has also shown high bacteria counts in the past. DNA analyses from PICOTT (2015) suggested Canada geese as a bacterial source, though canine detection (2013) indicated possible human sources in select sites in this area. Several small to medium-size agricultural fields are located nearby; runoff from these fields (either migratory geese or domestic animals) may be bringing bacteria to the tributary and ultimately to Spruce Creek. As such, the source of these high bacteria counts may be a mix of both human and non-human (e.g., wildlife, domestic animals) sources.

TASK 2: Microbial Source Tracking (MST)

FB Environmental will use microbial source tracking (MST) at three locations in the Upper Estuary/Picott Road Stream drainage area to further pinpoint the source of bacteria by testing for bovine (cow), human, and Canada geese DNA. This analysis will include sampling on two of the six bracket sampling dates from Task 1 (one under wet weather conditions and one under dry weather conditions).

TASK 3: Main Channel Analysis

FB Environmental will continue the analysis of the main channel of Spruce Creek that began in 2012. This analysis will include the deployment of two continuous data loggers at two locations in the main channel of the creek (upper and mid-estuary) to determine the overall water quality. Grab samples for bacteria and nutrients will also be collected at each location. Deployments will be targeted for August-September 2016, depending on weather conditions. All data will be combined with previous data to assess impairment status and determine if the water quality in the main channel of Spruce Creek is significantly changing.

TASK 4: Reporting

FB Environmental will prepare a final report detailing all work completed throughout the project.

PROJECT SCHEDULE

The project schedule is presented in Table 2. The proposed project will run from June-December 2016.

TABLE 2. Proposed 2016 Project Schedule

TASK	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
TASK 1: Bracket Sampling							
TASK 2: MST							
TASK 3: Main Channel Analysis							
TASK 4: Reporting							

PROPOSED BUDGET

As shown in Table 3, the base project budget will not exceed \$15,735 for the Scope of Work outlined in this proposal. All project funds will count as match for the Maine DEP watershed assistance grant recently received by the Town of Kittery.

TABLE 3. Proposed Project Budget

Task	Staff Hours/ Mileage	Hourly Rate	Cost
Task 1: Bracket Sampling and Analysis			
Laura Diemer, Project Manager	6	\$80	\$480
Lauren Bizzari, Project Scientist	8	\$67	\$536
Field Technician	24	\$30	\$720
Mileage	380 miles	0.55	\$209
Lab Fee - Bacteria Samples			\$1,240
Equipment Rental/Supplies			\$215
TOTAL			\$3,400
Task 2: Microbial Source Tracking*			
Laura Diemer, Project Manager	4	\$80	\$320
Lauren Bizzari, Project Scientist	2	\$67	\$134
Field Technician	5	\$30	\$150
Mileage	90 miles	0.55	\$50
Lab Fee - MST Analysis (UNH)			\$900
Equipment Rental/Supplies			\$5
TOTAL			\$1,559
Task 3: Main Channel Analysis			
Laura Diemer, Project Manager	32	\$80	\$2,400
Lauren Bizzari, Project Scientist	10	\$67	\$536
Mileage	36 miles	0.55	\$20
Lab Fee - Bacteria and Nutrient Samples			\$1,515
Equipment Rental/Supplies			\$4,000
TOTAL			\$8,471
Task 4: Reporting			
Laura Diemer, Project Manager	7	\$80	\$560
Lauren Bizzari, Project Scientist	18	\$67	\$1,206
Field Technician	18	\$30	\$540
TOTAL			\$2,306
GRAND TOTAL			\$15,735

*labor/mileage costs only for driving samples to UNH; sampling labor/mileage covered by Task 1

REFERENCES

JESSA KELLOGG, Shoreland Resource Officer

Town of Kittery, Maine

(860) 420-9039

Email: jkellogg@kitteryme.org

WENDY GARLAND, Watershed Assistance Section

Maine Department of Environmental Protection

(207) 822-6300

Email: wendy.garland@maine.gov

PHYLLIS FORD, President

Spruce Creek Association

(207) 438-9633 or (207) 229-6050

Email: phyllis@sprucecreekassociation.org

REPRESENTATIVE PROJECTS

FB Environmental has extensive water quality monitoring, bacteria source tracking, pollutant modeling, and watershed management experience. We provided references for recent monitoring and assessment projects we have conducted. Our contacts are people who are vital to managing water resources in New England and represent several disciplines. We strongly encourage reviewers to contact our references and to engage in lengthy discussions regarding our work.

SPRUCE CREEK WATERSHED-BASED MANAGEMENT PLAN, GRANT IMPLEMENTATION, BACTERIA SOURCE TRACKING, AND WATER QUALITY MONITORING

Contact: Jessa Kellogg, Kittery Shoreland Zone Officer (207) 439-0333

Since 2005, FB Environmental has been assisting the Town of Kittery, the Spruce Creek Association, and their partners with assessment and restoration of this bacteria-impaired estuarine waterbody. In 2005, FBE developed a Watershed-Based Management Plan for the Spruce Creek watershed by holding a series of stakeholder meetings to identify priorities for the watershed, analyzing existing water quality data, and creating engineering designs and cost estimates for addressing high priority sites identified in a thorough watershed analysis.



This plan has resulted in the funding of implementation measures in the watershed through a series of 319 grants, including the installation of vegetated buffers and rain gardens, replacement of septic systems, and assisting with Low Impact Development (LID)

demonstration projects on the highly-traveled Route 1 corridor. FBE continues to assist the Town of Kittery and the Spruce Creek Association with the implementation of these grants.

FBE has also provided annual water quality monitoring and bacteria source tracking project design and implementation to the Town of Kittery and the Spruce Creek Association since 2005. FBE also assists Kittery with grant writing, fundraising efforts, and GIS mapping.

BACTERIA ASSESSMENT AND SOURCE TRACKING IN RYE, NH

Contact: Kim Reed, Director of Planning, Town of Rye, NH (603) 964-5523

As shown in Table 1, FB Environmental has been working for multiple municipalities throughout New England for many years to address bacteria impairments and subsequent shellfish and beach closures. We specifically focus efforts on high-use summer recreation areas. One of those communities, Rye, is a coastal NH town with multiple bacteria impairments, both in the surf zone and in a tidal stream. FBE has been working with Rye since 2008 to develop a watershed plan for this area, conduct annual water quality analyses, including bacteria source tracking, and manage and implement a remediation grant from NHDES.



FBE and the Town of Rye have adopted a watershed approach to addressing their bacteria issues, including developing a septic system database of all properties in the watershed, installing stormwater BMPs, developing a public outreach program for residents and municipal staff, and conducting targeted bacteria sampling to identify neighborhoods of concern. These efforts have led to the successful discovery of multiple hotspots of bacterial contamination.

CANINE SCENT TRACKING TO ADDRESS BACTERIA NPS IMPAIRMENTS

Contact: Robert Puff, Director of Engineering, Town of Salem, NH (603) 890-2150

FB Environmental frequently works to assess and implement projects in bacteria-impaired waterbodies in New England and felt that the process for locating sources was often time-consuming and costly. Since 2012, we have worked with Environmental Canine Services (ECS) to bring their EPA-approved method to New England. The result of our work has been the successful, rapid-tracking of human-specific fecal bacteria sources in dozens of communities with chronic bacteria impairment and beach posting issues throughout New England. An additional benefit of these projects has been the outstanding regional and national press coverage resulting in heightened awareness of NPS issues.



FBE and ECS recently completed a comprehensive investigation of four bacteria-impaired freshwater

lakes in Salem, NH. The detailed bacteria investigation included extensive water quality sampling, a watershed survey of all potential bacteria sources, including a shoreline investigation, and canine detection.

OGUNQUIT RIVER RESTORATION PROJECT

Contact: Mike Horn, Ogunquit Conservation Commission, (207) 646-5139

FBE is working with the Town of Ogunquit, ME on a 319 Phase I/II initiative to reduce bacteria levels in the Ogunquit River, a State-listed impaired waterbody that has experienced persistent bacterial contamination from unidentified sources. The high bacteria counts and subsequent public beach advisories are attributed to nonpoint source (NPS) pollution. The goal of this project is to identify and treat potential sources of bacteria contributing to surface water contamination throughout the watershed. The Town has been proactive in maintaining a bacteria monitoring program at more than ten sites



throughout the watershed, and as a result, multiple “hotspots” with high bacteria levels have been identified. With support from the Steering Committee, this project will implement several Best Management Practices (BMPs) for stormwater mitigation within the watershed, evaluate potential areas of illicit discharge from septic and sewer systems, and administer a strong public outreach campaign to enhance local awareness of NPS pollution in stormwater.

APPENDIX A: KEY PROJECT STAFF RESUMES



FORREST BELL | PRINCIPAL SENIOR SCIENTIST



Forrest is the founder and owner of FB Environmental Associates, a regional leader in managing environmental assessment and restoration projects. With over 24 years of experience, Forrest has directed more than 200 successful environmental planning, assessment, monitoring, and restoration projects for clients, including federal and state natural resource agencies, municipalities, and non-profit organizations. Forrest is a skilled presenter and facilitator, embracing the challenge of presenting the complexities of land and water resources to New England's communities. Forrest received his BS in Geography from the University of Southern Maine and completed his Master's coursework at the University of New Hampshire in the Natural Resources Management program.

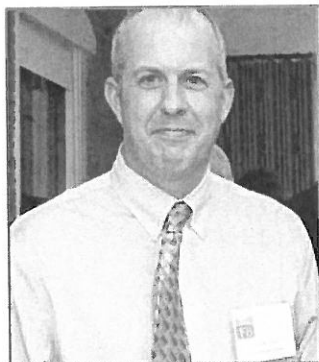
TECHNICAL EXPERTISE

- Watershed Planning
- Lake, River, & Stream Assessment and Restoration
- Section 319 Grant Writing, Management, & Implementation
- Public Presenting & Training
- BMP Design & Implementation

EDUCATION

M.S. Coursework completed, Natural Resource Administration & Management, University of New Hampshire, Durham (1999-2002)

B.S., Geography & Land Use Planning, University of Southern Maine (1991)



PROFESSIONAL HIGHLIGHTS

- Proven record of success working for clients such as US Environmental Protection Agency, US Army Corps of Engineers, Vermont Department of Environmental Conservation, Maine Department of Environmental Protection, New Hampshire Department of Environmental Services, Rhode Island Department of Environmental Management, Piscataqua Regional Estuaries Partnership, Spruce Creek Association, Friends of Casco Bay, the Casco Bay Estuary Partnership, New England land trusts, and dozens of municipalities in Maine and New Hampshire.
- Worked face-to-face with more than 5,000 landowners (including many agricultural producers) to develop conservation strategies for their properties to help improve water quality and to promote land protection.
- Advises nonprofit organizations, government, municipalities, and professional associations regarding compliance with environmental programs and laws.
- Delivered more than 100 formal presentations at numerous national, state, regional, and local water resource, watershed management, and land management conferences.
- Secured over \$7.5 million in environmental project funds between 1995 and 2015 for several organizations to help improve and protect water resources.

SELECT PROJECTS

Total Maximum Daily Load (TMDL) Assessment and Reporting

US Environmental Protection Agency Region 1 BPA (2008-2013). Principal scientist and manager for a five-year, 1.6 million-dollar contract focusing on TMDL assessments of impaired waterbodies in all six New England states. Tasks included technical writing, river and stream mapping, impervious surface analysis, pollutant load modeling, and water quality monitoring for multiple parameters.

Maine Department of Environmental Protection (2000-2007). Contractor for a 6-year, \$900,000 study of nutrient-impaired Maine lakes for the Total Maximum Daily Load program for 36 Maine lakes. Lead scientist and manager responsible for all aspects of project management and administration, water quality monitoring, land use analysis, and GIS mapping, technical writing, data analysis, developing loading models, drafting nutrient management recommendations, and facilitating a comprehensive public participation process.

Watershed Management Planning & Assessment

Acton-Wakefield Watersheds Alliance (2008-2010). Principal project manager for a two-year detailed lake assessment and watershed management plan completed in 2008 for the Upper Salmon Falls Headwater Lakes located on the Maine/New Hampshire border. Directed data analysis, modeling, stakeholder outreach, buildout analysis, and LID and stormwater control ordinances tasks. Awarded co-recipient of the 2012 US Water Prize for our outstanding project collaboration in the Salmon Falls River watershed communities.



FORREST BELL | PRINCIPAL SENIOR SCIENTIST

WATERSHED MANAGEMENT PLANNING & ASSESSMENT (CONTINUED)

City of South Portland, Maine (2008-2011). Project manager for the development of the US EPA merit award-winning, Long Creek Watershed Management Plan. Project tasks included developing a detailed stormwater retrofit inventory, including detailed cost estimates, developing a long-term monitoring plan, and leading a large technical advisory committee. FB Environmental also developed the QAPP and managed all aspects of the monitoring program in 2010-2011.

Casco Bay Estuary Partnership, Presumpscot River Drainage Basin (2003-2006). Co-managed a regional watershed management planning and assessment project for the Presumpscot River Watershed. Accomplishments include the authoring of an EPA-funded \$740,000 Targeted Watershed Initiative grant proposal and designing a comprehensive monitoring plan for the river, including the establishment of quality assurance guidelines and the installation of continuous monitoring devices.

York County Soil and Water Conservation District, Great Works River Watershed North Berwick and Sanford ME (2003-2007). Directed a multi-year project to conduct a high intensity field survey and stream corridor analysis, mapped the municipal stormwater system, conducted a detailed impervious surface analysis using digital orthoquad photos, and authored a comprehensive watershed management plan for the numerous project partners.

RECENT PRESENTATIONS AND PUBLICATIONS

- 2015 Joint NEAEB/NH Water & Watershed Conference: Bacteria Source Tracking
- 2014 NH Waters Conference: Bacteria Source Tracking in Kittery, ME and Seacoast NH
- 2012 NH Drinking Water Conference: Enacting LID Ordinances in ME & NH
- 2012 Rhode Island Watershed Based Plan Final Presentation, Bristol & Barrington, RI
- 2012 Lake Wentworth Watershed Based Plan & Buildout Analysis, Wolfeboro, NH
- 2011 Statewide IC TMDL Stakeholder Presentations, Portland & Topsham, ME



LAURA DIEMER | PROJECT MANAGER, ENVIRONMENTAL MONITORING



Laura rejoined our team of scientists in 2014 after starting with FBE in 2011 and leaving over a year later to complete an M.S. in Soil and Water Resource Management from the University of New Hampshire. Her research at UNH focused on understanding biogeochemical cycling of carbon and nutrients in fire-impacted, boreal streams of Central Siberia. She received a B.A. in Ecology and Environmental Science from the University of Maine in 2010 and gained valuable research and writing experience by assisting resource managers through the National Park Service, developing reports on organic waste management at New England Organics, conducting salt marsh water quality and vegetation monitoring at Wells National Estuarine Research Reserve, and developing conservation initiatives through The Nature Conservancy. At FBE, Laura manages our lake and river water quality monitoring and assessment projects and supports our work in watershed planning, stream restoration, GIS mapping, nutrient loading modeling, wetland delineation, and climate change adaptability.

TECHNICAL EXPERTISE

- Lake & Stream Biogeochemistry & Ecology
- Watershed Hydrology
- Watershed Management & Surveys for NPS Pollution
- Water Quality Monitoring & Assessment
- Statistical Analyses
- GIS Spatial Analyses

EDUCATION

M.S., Soil & Water Resource Management, University of New Hampshire, Durham (2014)

B.S., Ecology & Environmental Science, University of Maine, Orono (2010)

MEMBERSHIPS

Society for Freshwater Science (SFS), Member (2013 – Present)

North American Lakes Management Society (NALMS), Member (2015 – Present)

PUBLICATIONS

Diemer et al. (2015). Nutrient uptake along a fire gradient in boreal streams of Central Siberia. *Freshwater Science* 34(4), 1443-56.



PROFESSIONAL EXPERIENCE

Water Quality Monitoring

Water Quality Monitor (2011 – Present). Developed over thirty water quality reports for multiple clients since 2011. Conducts full suite of water quality monitoring for lakes, streams, tidal estuaries, and beaches throughout Maine and New Hampshire, including continuous, grab, and epilimnetic core sample monitoring for physical and chemical parameters and flow monitoring using USGS guidelines; expert experience with deployment and calibration of data loggers; conducts data analysis, QA/QC, and report writing; certified Maine VLMP volunteer.

Watershed Management Plans

Ossipee Lake Watershed Management Plan Phase I: A Watershed Plan for Danforth Ponds and the Lower Bays of Ossipee Lake (2014-2015). Developed plan and conducted mapping and nutrient load modeling for recommended BMPs.

Capehart Brook Watershed Management Plan (2014-2015). Developed plan and conducted water quality analyses, pollutant load modeling, BMP prioritization, and mapping. Assisted with an in-field rapid habitat and geomorphic stream assessment.

319 Grant Implementation Projects

Ogunquit River Watershed Restoration Project Phase I (2014-2016). Provided technical assistance to the Town of Ogunquit, Maine for Phase I of a 319 grant obtained from ME DEP. Tasks include attendance at Steering Committee meetings, design of residential BMPs, coordination with landowners and Town staff, smoke testing of stormwater and sewer systems, and preparation of deliverables and final reports to the State.

Total Maximum Daily Load (TMDL) Reports

Maine NPS TMDL Stream Delisting (2014). Developed a report to the ME DEP for 6 streams in the 2013 Maine NPS TMDL that do not meet State water quality standards for dissolved oxygen, but required no nutrient or sediment loading reduction, as a result of natural conditions present.

Statewide TMDL Reports (2011-2013). Assisted with the development of nonpoint source, impervious cover, and bacteria TMDLs for ME, CT, and RI.

Wetland Classification & Delineation

Wetland & Stream Delineation (2014). Assisted with wetland delineation for projects in Portland, ME, Keene, NH, and Roxbury/Sullivan, NH. Conducted soil pit classification, plant identification, and stream high water and top-of-bank mapping.

Wetland Delineation Certificate Program Coursework (2013-2014). Intro to Field Indicators of Hydric Soils, Wetland Classification, Winter Plant ID for Wetland Boundary Determination, US Army Corps Wetland Delineator Methods, and ID of Trees and Shrubs.



LAUREN BIZZARI | PROJECT SCIENTIST



Lauren joined FB Environmental in 2015. She received an M.S. in Environmental and Plant Biology in 2013 from Ohio University, where she evaluated the reintroduction success of blight-resistant American chestnut (*Castanea dentata*) across the Central Appalachian region. She also completed a B.A. in Biology from Colby College in 2009 and returned to her alma mater in 2013 as a lab manager for an ecological research lab, where she studied the effects of habitat fragmentation on plant diversity. Lauren has many years of fieldwork experience from a diverse range of research projects, including a forest management experiment in northern Wisconsin and a study of groundwater nitrogen removal on the shoreline of Cape Cod. As part of the FBE staff in our Portsmouth, NH office, Lauren contributes to projects involving restoration planning, invasive species control, natural resource inventories, wetland delineation, GIS mapping, lake and stream water quality monitoring, and stormwater sampling and site evaluation.

TECHNICAL EXPERTISE

- Botany
- Vegetation Surveys
- Water Quality Monitoring
- Invasive Species Management
- Statistical Analyses

EDUCATION

M.S., Environmental and Plant Biology, Ohio University, Athens, OH (2013)

B.S., Biology, Colby College, Waterville, ME (2009)

MEMBERSHIPS

Ecological Society of America (ESA), Member (2011 – Present)

The American Chestnut Foundation (TACF), Member (2012 – Present)

PUBLICATIONS

Bizzari, L. E., et al. (2015). Historical agriculture and contemporary fire frequency alter soil properties in longleaf pine woodlands. *Forest Ecology and Management*. 349: 45-54.



PROFESSIONAL EXPERIENCE

Ecological Research

Laboratory Manager, Colby College (2013 – 2015). Coordinated research projects in a community and restoration ecology lab. Managed data organization and quality control, supervised undergraduate student workers. Co-supervised field crews for tree growth assessment of a forest restoration project in Costa Rica and vegetation surveys of successional habitat in Lawrence, KS.

Graduate Research Assistant, Ohio University (2011 – 2013). Conducted a follow-up study of five-year-old blight-resistant American chestnut plantations on reclaimed mine lands. Traveled to remote study sites in five different Appalachian states and coordinated fieldwork with out-of-state collaborators. Surveyed chestnut growth and survival and collected soil and leaf samples for subsequent nutrient analyses.

Field Crew Leader, University of Wisconsin - Madison (2010 – 2011). Led and organized daily field tasks, such as vegetation and forest structure surveys, for an experimental study of northern hardwood forest management. Assisted with end-of-season data entry using Microsoft Access and Excel.

Research Technician, Washington University in St. Louis (2009 – 2010). Surveyed woody plants and collected soil samples for a project investigating plant community assembly and recovery in longleaf pine savannas. Used GPS units and historical aerial photos to locate study sites. Completed independent research studying agricultural legacies in forest soils.

Natural Resource Inventory and Monitoring

Land Stewardship Intern, The University of Vermont (2009). Completed natural resource inventories for local land trusts as part of a team of interns. Created GIS maps of invasive species populations in the Green Mountain National Forest.

Conservation Intern, The Wetlands Institute (2008). Monitored diamondback terrapin nesting activity with a team of interns. Conducted breeding bird census as part of an independent research project.

Teaching and Educational Outreach

Co-presenter, Hardy Girls Healthy Women (April 2012). Co-designed and presented a hands-on workshop ("Ripple Effect") on aquatic ecology for 4th and 5th grade girls at a conference focused on empowering young women.

Teaching Assistant, Ohio University (2011 – 2013). Assisted with laboratory teaching, preparation, and grading for Principles of Biology, Plant Propagation, Biostatistics, and Soil Microbial Analysis.

SPRUCE CREEK WATERSHED | MONITORING & RESTORATION

March 28, 2016 - Town of Kittery, Town Council Meeting

Spruce Creek suffers from **fecal contamination** (high fecal indicator bacteria counts), **low dissolved oxygen**, and **toxic contamination** from nonpoint source pollution (i.e., development in the watershed). These impairments have resulted in the **closure of shellfish beds** in the estuary since July 2005.



Spruce Creek (MIDEST)

319 Grant Restoration Phases I-IV

64 projects installed
5 tons/yr sediment reduced
15 lbs./yr phosphorus reduced
115 lbs./yr nitrogen reduced
567 billion bacteria col/yr reduced



Dion Ave

Great work has been done to date to address these impairments, including monitoring and **“hotspot” bacteria tracking**, as well as **implementing on-the-ground projects that reduce pollutants** from entering the creek and **raise awareness** of these issues.

SPRUCE CREEK ASSOCIATION



Tracking fecal contamination is an elusive and complex effort that **requires the awareness, cooperation, and targeted actions** of municipalities, local organizations, businesses, residents, and visitors **to minimize their fecal contribution** to local waterways.

TRACKING AND REMEDIATING POLLUTANTS IN THE SPRUCE CREEK WATERSHED WILL BE AN ONGOING EFFORT TO ENSURE PUBLIC SAFETY, ECONOMIC WELL-BEING, AND ENVIRONMENTAL HEALTH.



Spruce Creek (PICOTT)

2015 water quality monitoring revealed three **“hotspot” sites**, consistent with previous years monitoring. These sites had **very high bacteria counts** and/or **DNA analyses showing human fecal matter** as a dominant source of pollutants (PICOTT, CC1, MC1; **see map**).

We propose following up on these sites with specific monitoring efforts that will bracket potential sources (e.g., check for contaminated cross connections near MC1, check for changes in bacteria counts before and after Town sewer connections near CC1, and check for possible bovine fecal sources near PICOTT). These efforts will allow us to **provide the Town with specific recommendations for remediating human fecal contamination** to these sites.



Chickering Creek (CC1)

Spruce Creek Watershed - 2015 Sampling Results

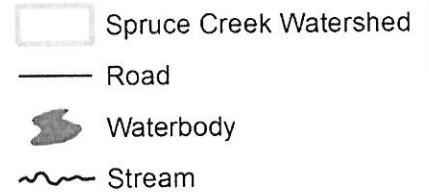
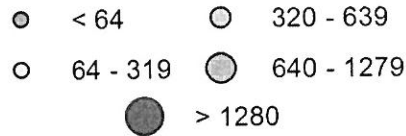


Data Source: ArcGIS, MEGIS, FBE
 Projection: NAD 1983 UTM 19N
 Map Created by
 FB Environmental
 March 2016

LEGEND

Geometric Mean

E. coli (col/100 mL)



0 0.25 0.5 1 Miles



REPORT to the KITTELY TOWN COUNCIL

1 **RESPONSIBLE INDIVIDUALS:** Beers, Denault

Date: January 25, 2016

2 **SUBJECT:** Town Code Title 13 Error Revision

3 **BACKGROUND:**

- 4 • Councilor Dennett discovery (*atch 1*)
- 5 • Recodification history of the item's transition (*encl 1*)

6 **CURRENT SITUATION:**

- 7 • 30-A MRS §3443 mandates an arbitration process (*encl 2*)
- 8 • It is unknown just how/when the error occurred during the recodification process, but
- 9 there was no intention to change the provision for appeals as laid out in the state law.
- 10 • "Strikeout/underscore" (*encl 3*) draft provided for review is intended to resolve the
- 11 issue.
- 12 • Draft is in due form and proper format with enactment findings of fact, basis of law, and
- 13 legislative intent delineated and satisfy all statutory obligations.

14 **RECOMMENDATION:** Ordain correction presented.

ENCLOSURES

1. Recodification History
2. 30-A MRS §3443
3. Title 13 §1.4.5 Ordinance Revision Proposal Enactment

15

REPORT to the KITTELY TOWN COUNCIL

16 ENCLOSURE 1: ITEM RECODIFICATION HISTORY

17 ORIGINAL

18 13.04.370 Appeal of assessment.

19 Any person, firm or corporation not satisfied with the amount for which he/she is assessed
20 pursuant to Section 13.04.350 may appeal within ten (10) days pursuant to 30-A MRSA, Section
21 3443. (Prior code § 10-68)

22 1/2/10 Revisions

23 ~~13.04.370~~ Appeal of assessment.

24 Any person, ~~firm or corporation~~ not satisfied with the amount ~~for which he/she is of~~
25 ~~assessed~~ pursuant to Section 13.04.350 may appeal within ten (10) days pursuant to 30-A
26 MRSA, ~~§Section~~ 3443. (~~Prior code § 10-68~~)

27 1/2/10 Accepted

28 13.1.37 Appeal of assessment.

29 Any person, firm or corporation not satisfied with the amount for which he/she is
30 assessed pursuant to Section 13.04.350 may appeal within ten (10) days pursuant to
31 30-A M.R.S., §3443. (Prior code §10-68)

32 Record not found of revision from 1/2/10 to 6/17/10

33

34 6/17/10 Final

35 13.1.4.5 Appeal of Assessment.

36 Any person not satisfied with the amount of assessment pursuant to Section 13.1.4.3
37 may appeal to the Board of Appeals within ten (10) days pursuant to 30-A M.R.S.
38 §3443.

39 8/3/10 Ordained

40 13.1.4.5 Appeal of Assessment.

41 Any person not satisfied with the amount of assessment pursuant to Section 13.1.4.3 may
42 appeal to the Board of Appeals within ten (10) days pursuant to 30-A M.R.S. §3443.

43 NEEDED REVISION:

44 13.1.4.5 Appeal of Assessment.

45 Any person not satisfied with the amount of assessment pursuant to Section 13.1.4.3 may
46 ~~appeal to the Board of Appeals within ten (10) days pursuant to 30-A M.R.S. §3443.~~

47

REPORT to the KITTELY TOWN COUNCIL

ENCLOSURE 2: 30-A MRS ASSESSMENTS AND FEES

Title 30-A: MUNICIPALITIES AND COUNTIES

Part 2: MUNICIPALITIES

Subpart 5: HEALTH, WELFARE AND IMPROVEMENTS

Chapter 161: SEWERS AND DRAINS

Subchapter 3: ASSESSMENTS AND FEES

§3443. Arbitration of assessment

Any person who is dissatisfied with the amount assessed under section 3442 may, within 10 days after hearing under section 3442, subsection 5, make a written request to the municipal clerk to have the assessment upon the lot or parcel of land determined by arbitration.

1. Arbitrators selected. The municipal officers shall nominate 6 persons who are residents of the municipality. The applicant shall select 2 of these persons, and these 2 persons shall select a 3rd person who is a resident of the municipality and who is not one of the 6 persons nominated by the municipal officers.

2. Arbitration procedure. The 3 persons selected under subsection 1 shall fix the amount to be paid by the applicant. Within 30 days from the hearing before the municipal officers under section 3442, the arbitrators shall report their findings to the municipal clerk who shall record them. The arbitrators' report is final and binding on all parties.

§3442. Expense of construction

5. Hearing; revision of assessments. When the hearing is held, the municipal officers or sewer district trustees may revise, increase or diminish any of these assessments. Any revision, increase or diminution must be in writing and recorded by the municipal clerk and the sewer district trustees.

REPORT to the KITTERY TOWN COUNCIL

ENCLOSURE3: Title 13 §1.4.5 ordinance revision proposal

AN ORDINANCE relating to the municipality's authority to assessment sewer betterment fees the Town of the Kittery for those purposes, as more particularly set forth herein.

WHEREAS, the Kittery Town Council is authorized to enact this Ordinance, as specified in Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers that authorize the town, under certain circumstances, to provide for the public health, safety, morals, and welfare and does not intend for this Ordinance to conflict with any existing state or federal laws.

WHEREAS, the Council is enacting this Ordinance in order to correctly implement its obligations and authority pursuant to 30-A MRS §3443, Arbitration of assessment, to have the assessment upon the lot or parcel of land determined by arbitration; and

WHEREAS, the Council intends, through the adoption of this Ordinance amendment, to correct the error made during the 2010 recodification;

NOW THEREFORE, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS REVISION TO TITLE 13 OF THE TOWN CODE, AS FOLLOWS:

"13.1.4.5 Appeal of Assessment.

Any person not satisfied with the amount of assessment pursuant to Section 13.1.4.3 may appeal to the Board of Appeals within ten (10) days pursuant to 30-A M.R.S. §3443."

Approved as to form: _____ {NAME}, Town Attorney

INTRODUCED and read in a public session of the Town Council on the ____ day of _____, 20____, by: _____ {NAME} Motion to approve by Councilor _____ {NAME}, as seconded by Councilor _____ {NAME} and passed by a vote of _____.

THIS ORDINANCE IS DULY AND PROPERLY ORDAINED by the Town Council of Kittery, Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

Attest: {NAME}, _____ Town Clerk



3/07

TOWN OF KITTEERY
Office of the Town Clerk
200 Rogers Road, Kittery, Maine 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

**APPLICATION FOR VICTUALERS, INNKEEPERS,
AND LODGING HOUSE OPERATORS LICENSE**

PLEASE PRINT THIS APPLICATION AND FILL IT OUT - DO NOT FILL IT OUT ON THE COMPUTER
Thank you.

Applicant's name: Kittery Trading Post Shops, LLC
(please print)

Address: 301 US RT 1, Kittery, ME 03904
(please print)

Applicant's mailing address if different from above: _____

Applicant's Date of Birth: _____ Applicant's Home Telephone Number: _____

Name of Business: The Lobster Pot
(please print)

Business Address: 301 US RT 1, Kittery, ME 03904
(please print)

Business Telephone Number: 207-229-0335

SIGNATURE OF APPLICANT: [Signature] DATE: 3/8/16

APPLICANT'S NAME: Kevin F. Adams
(please print)

LICENSE FEE: \$ 50.00

FIRST TIME APPLICATIONS: \$50.00
RENEWAL OF LICENSE: \$25.00

PLEASE SUBMIT THIS FORM WITH THE APPROPRIATE FEE TO THE TOWN CLERK'S OFFICE



3/28

TOWN OF KITTERY
Office of the Town Clerk
200 Rogers Road, Kittery, Maine 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

**APPLICATION FOR VICTUALERS, INNKEEPERS,
AND LODGING HOUSE OPERATORS LICENSE**

PLEASE PRINT THIS APPLICATION AND FILL IT OUT - DO NOT FILL IT OUT ON THE COMPUTER
Thank you.

Applicant's name: Manc Ocean Lobster, LLC
(please print)

Address: 301 US RT 1, Kittery, ME 03904
(please print)

Applicant's mailing address if different from above: _____

Applicant's Date of Birth: _____ Applicant's Home Telephone Number: _____

Name of Business: The Pointe
(please print)

Business Address: 31 Badgers Island West, Kittery, ME 03904
(please print)

Business Telephone Number: 207-729-0335

SIGNATURE OF APPLICANT: Kevin F Adams DATE: 3/8/16

APPLICANT'S NAME: Kevin F Adams
(please print)

LICENSE FEE: \$ 50.⁰⁰

FIRST TIME APPLICATIONS: \$50.00
RENEWAL OF LICENSE: \$25.00

PLEASE SUBMIT THIS FORM WITH THE APPROPRIATE FEE TO THE TOWN CLERK'S OFFICE



TOWN OF KITTERY
Office of the Town Clerk
200 Rogers Road
Kittery, Maine 03904
Phone 207-474-1328 Fax 207-439-6806

APPLICATION FOR SPECIAL ACTIVITY/AMUSEMENT PERMIT
(Pursuant to 28-A M.R.S.A. Sec. 1054)

Name, address and legal status of individual(s) or entity seeking to hold permit:

MAINE OCEAN LOBSTER, LLC
301 US RT 1 KITTERY, ME 03904

Name and mailing address of the premises where the special activity/amusement will occur:

THE POINT
31 BANGORS ISLAND WEST, KITTERY, ME 03904

Mailing address and telephone number of owner of the real estate:

31 BANGORS, LLC KERRI BANGORS 207-229-0335

Describe the specific portion of the premises where the special activity/amusement will occur:

ON THE DECK/DOCK

Set forth the specific time periods between which the special activity/amusement will occur:

Mon - Sunday 7:00 PM - 10:00 PM April - October

Describe the specific activity or type of amusement for which the permit is requested:

1-2 MAN ACOUSTIC BANDS

Has any individual(s), partner(s), majority shareholder(s) of the business entity, seeking to hold this permit, been convicted of a felony or had any similar type of amusement or activity permit been denied or revoked within the past ten (10) years by any other municipal or state authority, agency or board? Yes ☐ No ☒

If so, give the state of conviction for any felony and describe specifically the circumstances of any such denial or revocation giving the state or city and date of such denial or revocation:

Give any additional information to support your request for the permit sought herein:

1-2 man acoustic Bands playing for
The Divers

As part of this application process, the individual or business entity seeking the permit herein acknowledges that the Municipal Officers, pursuant to 28-A M.R.S.A. Subsection 1054(7) may suspend or revoke the permit applied for herein on the grounds that the activity or amusement constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or regulations.

Give the authority and legal relationship of the applicant signing below to the entity seeking permit:

MANAGER OF 31 BARRONS LLC + MANAGER
OF MAINE OCEAN LOBSTER, LLC D/B/A THE FOUNTAIN

NOTE: In granting this permit, the Town relies on the accuracy and truth of the facts represented herein. Any misleading or incorrect information set forth in this application shall be grounds for denial or immediate revocation of the permit issued. By signing this application, the applicant represents the truth of the facts herein stated.

DATE OF APPLICATION: 3/10/16

SIGNATURE OF APPLICANT: [Signature]

APPLICANT'S NAME: Kenneth F. Adams
(please print)

ADDRESS: 301 US RT 1, Kittery, ME 03904
(please print)

TELEPHONE NUMBER: 207-229-0335

FEE: \$20.00 per year Must be renewed annually with liquor license.

PLEASE SUBMIT THIS FORM AND APPROPRIATE FEE TO THE TOWN CLERK'S OFFICE



3-28-16

TOWN OF KITTERY
Office of the Town Clerk
200 Rogers Road
Kittery, Maine 03904
Phone 207-474-1328 Fax 207-439-6806

APPLICATION FOR SPECIAL ACTIVITY/AMUSEMENT PERMIT
(Pursuant to 28-A M.R.S.A. Sec. 1054)

Name, address and legal status of individual(s) or entity seeking to hold permit:

The Dance Hall 501(c)3 Non-profit Organization
TheDancehallKittery.org

Name and mailing address of the premises where the special activity/amusement will occur:

The Dance Hall 7 Walker St, Kittery
P.O. Box 691, Kittery, ME 03904

Mailing address and telephone number of owner of the real estate:

P.O. Box 691, Kittery
207-703-2083

Describe the specific portion of the premises where the special activity/amusement will occur:

The main Hall, first floor

Set forth the specific time periods between which the special activity/amusement will occur:

Fridays, Saturdays, + Sundays on ^{occasions} ~~at~~

Describe the specific activity or type of amusement for which the permit is requested:

music concerts; music and dance; dance
performance

Has any individual(s), partner(s), majority shareholder(s) of the business entity, seeking to hold this permit, been convicted of a felony or had any similar type of amusement or activity permit been denied or revoked within the past ten (10) years by any other municipal or state authority, agency or board? Yes ☐ No ☒

If so, give the state of conviction for any felony and describe specifically the circumstances of any such denial or revocation giving the state or city and date of such denial or revocation:

(Over)

Give any additional information to support your request for the permit sought herein:

We are a non-profit arts & cultural venue
Celebrating ^{advancing} music, dance and the
performing arts.

As part of this application process, the individual or business entity seeking the permit herein acknowledges that the Municipal Officers, pursuant to 28-A M.R.S.A. Subsection 1054(7) may suspend or revoke the permit applied for herein on the grounds that the activity or amusement constitutes a detriment to the public health, safety or welfare, or violates municipal ordinances or regulations.

Give the authority and legal relationship of the applicant signing below to the entity seeking permit:

Executive Director ex officio board
member, The Dance Hall

NOTE: In granting this permit, the Town relies on the accuracy and truth of the facts represented herein. Any misleading or incorrect information set forth in this application shall be grounds for denial or immediate revocation of the permit issued. By signing this application, the applicant represents the truth of the facts herein stated.

DATE OF APPLICATION: 3/14/16

SIGNATURE OF APPLICANT: Drika Overton

APPLICANT'S NAME: Drika Overton
(please print)

ADDRESS: 161 Whipple Rd, Kittery, ME 03904
(please print)

TELEPHONE NUMBER: 603-661-7510

FEE: \$20.00 per year Must be renewed annually with liquor license.

PLEASE SUBMIT THIS FORM AND APPROPRIATE FEE TO THE TOWN CLERK'S OFFICE

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER: _____ **CLASS:** _____

DEPOSIT DATE _____

AMT. DEPOSITED: _____ **BY:** _____

CK/MO/CASH: _____

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV)
- ☐ HOTEL-OPTINONAL FOOD (Class I-A)
- ☐ CLASS A LOUNGE (Class X)
- ☐ CLUB (Class V)
- ☐ TAVERN (Class IV)

- ☐ RESTAURANT/LOUNGE (Class XI)
- ☐ HOTEL (Class I,II,III,IV)
- ☐ CLUB-ON PREMISE CATERING (Class I)
- ☐ GOLF CLUB (Class I,II,III,IV)
- ☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.)			2. Business Name (D/B/A)		
DOB: _____			THE LOBSTER POT		
KITTERY TRADING POST SHOPS, LLC			DOB: _____		
DOB: _____			Location (Street Address)		
Address PO Box 904			301 US RT 1		
City/Town Kittery			State ME Zip Code 03904		
301 US RT 1			Mailing Address		
City/Town Kittery			PO Box 904		
State ME Zip Code 03904			City/Town Kittery		
Telephone Number 207-439-2200			State ME Zip Code 03904		
Fax Number 207-252-9411			Business Telephone Number 207-439-2200		
Federal I.D. # 200891729			Fax Number 207-252-9411		
			Seller Certificate # 1150806		

EMAIL ADDRESS: massland360@gmail.com

3. If premises is a hotel, indicate number of rooms available for transient guests: N/A
4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐
- If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
7. If manager is to be employed, give name: _____
8. If business is NEW or under new ownership, indicate starting date: 4/15/16
Requested inspection date: 4/10/16 Business hours: M-Sat 11:00 AM - 12:00 PM Sun - 11:00 AM - 6:00 PM
9. Business records are located at: 301 US RT 1, Kittery, ME 03904
10. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐
11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
<u>Fox Karm</u>	<u>1/27/74</u>	<u>Westerly, RI</u>
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
<u>Fox Karm</u>	<u>LEWIS, Maine</u>	

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____
Offense: _____ Location: _____
Disposition: _____

14. Will any law enforcement official benefit financially either directly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Kevin, Inc., PO Box 904, Kittery ME 03904

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) ATTACHED

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 3/4 mile Which of the above is nearest? School

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

KUTNEY TRAINING POST SHOPS, LLC

2. Other business name for your entity (DBA), if any:

THE LOBSTER POT

3. Date of filing with the Secretary of State: 1/1/14

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
KUTNEY ADAMS	KUTNEY, MAINE	11/9/59	72.85
KUTNEY ADAMS	KUTNEY, MAINE	12/10/53	19.43
ROBERT ADAMS	DORSET, NH	8/28/60	5
DAVID LABBE	KUTNEY POINT, ME	11/10/57	2.72

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

Date 3/14/16


Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Kittanning, PA on March 14th, 20 16
Town/City, State Date

[Signature]
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Kenneth F. Adams
Print Name

Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

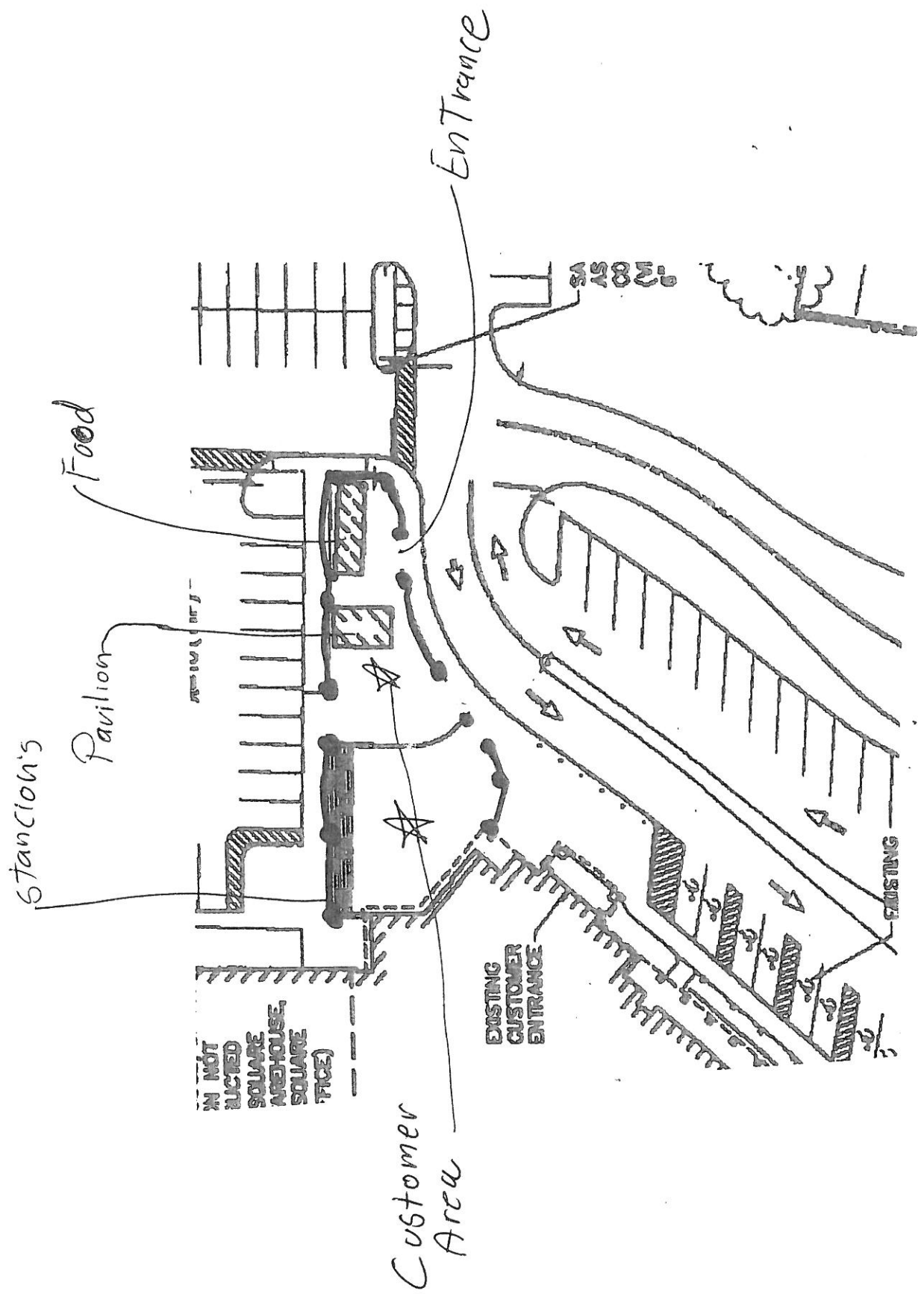
FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

FILING FEE \$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to the **Treasurer of Maine**. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station, Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.



STATE OF MAINE

Dated at: _____, Maine _____ SS
City/Town (County)

On: _____
Date

The undersigned being: ☐ Municipal Officers ☐ County Commissioners of the
☐ City ☐ Town ☐ Plantation ☐ Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
 - A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
 - B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
 - C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c.589, §1 (amd).]
2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
 - A. Conviction of the applicant of any Class A, Class B or Class C crime: [1987, c.45, Pt.A§4 (new).]
 - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
 - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
 - D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592, §3 (amd).]
 - E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
 - F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c.730, §27 (amd).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. **No license to person who moved to obtain a license. (REPEALED)**

5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

rec'd 3/10/16

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.)			2. Business Name (D/B/A)		
DOB: _____			THE POINTE		
Maine Ocean Lobster, LLC			Location (Street Address)		
DOB: _____			31 BADGERS ISLAND WEST		
Address			City/Town State Zip Code		
301 US RT 1			Kittery ME 03904		
City/Town State Zip Code			Mailing Address		
Kittery ME 03904			301 US RT 1		
City/Town State Zip Code			City/Town State Zip Code		
Kittery ME 03904			Kittery ME 03904		
Telephone Number			Business Telephone Number		
207-829-0335			207-829-0335		
Fax Number			Fax Number		
207-752-9001			207-752-9111		
Federal I.D. #			Seller Certificate #		
81-1733991			Restored online 3/10/16		

EMAIL ADDRESS: MOSSLAND360@GMAIL.COM

3. If premises is a hotel, indicate number of rooms available for transient guests: N/A

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐
7. If manager is to be employed, give name: JENNIFER LYNN WATSON
8. If business is NEW or under new ownership, indicate starting date: 4/15/16
Requested inspection date: 4/10/16 Business hours: MON-FRI 4:PM-11:PM SAT-SUN 10:AM-11:PM
9. Business records are located at: 301 US RT 1, KITTERY, ME 03904
10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐
11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
JENNIFER LYNN WATSON	6/15/74	RIVERSIDE, CA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
JENNIFER LYNN WATSON	LEWISTON, PA	

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____
Offense: _____ Location: _____
Disposition: _____

14. Will any law enforcement official benefit financially either directly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ NO ☒

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner:
31 BARKERS, LLC 301 US RT 1, KITTERY, ME 03904

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) ATTACHED

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☒ Applied for: 3/9/16

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? .25 MILES Which of the above is nearest? CHURCH

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

- Exact legal name: MAINE OCEAN LOBSTER, LLC
- Other business name for your entity (DBA), if any: THE FOUNTAIN
- Date of filing with the Secretary of State: 3/8/16
- State in which you are formed: MAINE
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Kenneth Adams	Kittery, Maine	11/09/59	80
Jennifer Watson	Lehigh Valley, PA	6/15/74	10
David Labbe	Kittery Point, Maine	11/10/57	5
Robert Adams	Dover, NH	8/08/60	5

7. Is any principal person involved with the entity a law enforcement official?

Yes

☐

No

☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

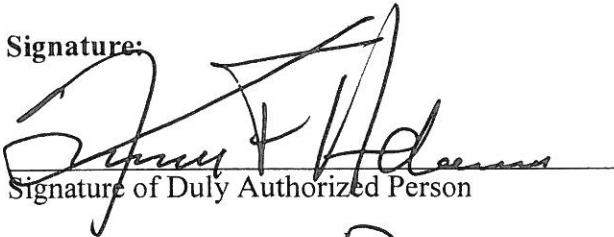
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

Date

3/8/16

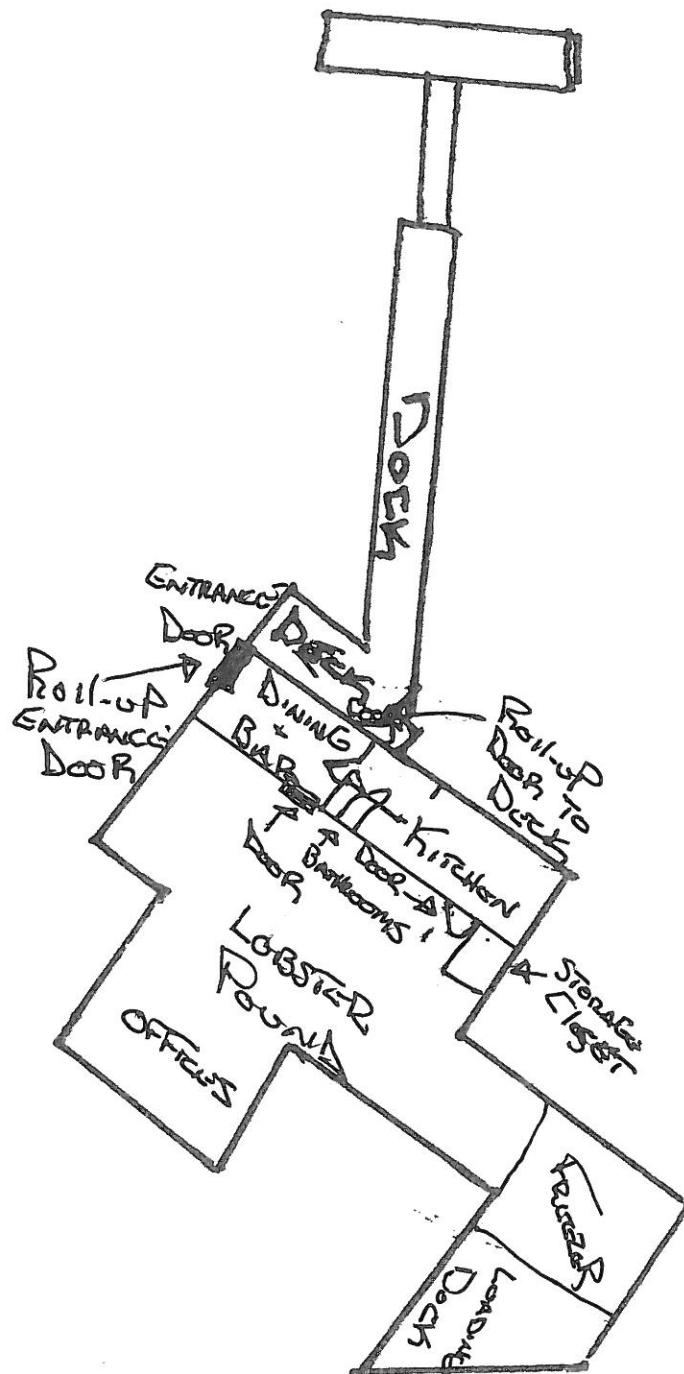

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

31 BARBERS
WEST



The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Kentucky, Maine on March 8TH, 20 16
Town/City, State Date

Please sign in blue ink

[Signature]
Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Kenneth F Adams
Print Name

Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

STATE OF MAINE

Dated at: _____, Maine _____ SS
City/Town (County)

On: _____
Date

The undersigned being: Municipal Officers County Commissioners of the
 City Town Plantation Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
 - A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
 - B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
 - C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]
2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
 - A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]
 - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
 - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
 - D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]
 - E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
 - F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).][1993, c730, §27 (amd).]
3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a pub-

lic hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. No license to person who moved to obtain a license. (REPEALED)

5. (TEXT EFFECTIVE 3/15/01) Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Rec'd 3-10-16

BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES 4-30-16

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)
XI)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

(Class I) ☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER:

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) --(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Badger's Island Pizza LLC</u> DOB: <u>12/15/59</u>	2. Business Name (D/B/A) <u>BADGER'S ISLAND PIZZA</u>
DOB:	
DOB:	Location (Street Address) <u>3 ISLAND AVE</u>
Address <u>30 REMICKS LN</u>	City/Town State Zip <u>KITTERY ME 03904</u>
<u>KITTERY ME 03904</u>	Mailing Address <u>SAME AS ABOVE</u>
City/Town State Zip <u>KITTERY ME 03904</u>	City/Town State Zip <u>KITTERY ME 03904</u>
Telephone Number <u>207-752-0253</u>	Business Telephone Number <u>207-439-5996</u>
Fax Number	Fax Number
Federal I.D. # <u>464531902</u>	Seller Certificate # <u>RESALE - 1167939</u> <u>LIQUOR - 7171</u>

EMAIL ADDRESS: JOHN@BADGERSISLANDPIZZA.COM

3. If premises is a hotel, indicate number of rooms available for transient guests: N/A

4. State amount of gross income from period of last license: ROOMS \$ N/A FOOD \$ 383K LIQUOR \$ 9K

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: N/A

8. If business is NEW or under new ownership, indicate starting date: N/A

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 3 ISLAND AVE KITTERY, ME 03904

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:

Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
JOHN W. HUDDLESTON	12/15/59	PALESTINE, TX

Residence address on all of the above for previous 5 years (Limit answer to city & state)

KITTERY, ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations,

of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner:

AIP REALTY TRUST 15 VAN BUREN AVE PORTSMOUTH, NH 03801

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required)

DENING ROOM & PATIO - BADGER'S ISLAND PIZZA/KITTERY, ME

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house,

measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel

or parish house by the ordinary course of travel? .5 MILES Which of the above is nearest?

CHURCH

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than your-

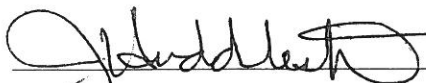
self in the establishment of your business? YES ☐ NO ☒

If YES, give details:

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: KITTERY, ME on MARCH 10,
APRIL 30, 20 16
Town/City, State Date



Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Of-

John Huddleston

Print Name

Print Name

NOTICE - SPECIAL ATTENTION

- D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592, §3 (amd).]
- E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
- F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c.730, §27 (amd).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. **No license to person who moved to obtain a license. (REPEALED)**

5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

For Office Use Only:

License #: _____

Date Filed: _____

Supplemental Information Required for Business Entities Who Are Licensees

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

BADGER'S ISLAND PIZZA, LLC

2. Other business name for your entity (DBA), if any:

BADGER'S ISLAND PIZZA

3. Date of filing with the Secretary of State: 1/8/14

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: N/A

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
JOHN HUDDLESTON	30 REMICKS LN KITTERY, ME	12/15/59	

7. Is any principal person involved with the entity a law en-

forcement official? Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature: _____



See previous page
Signature of Duly Authorized Person

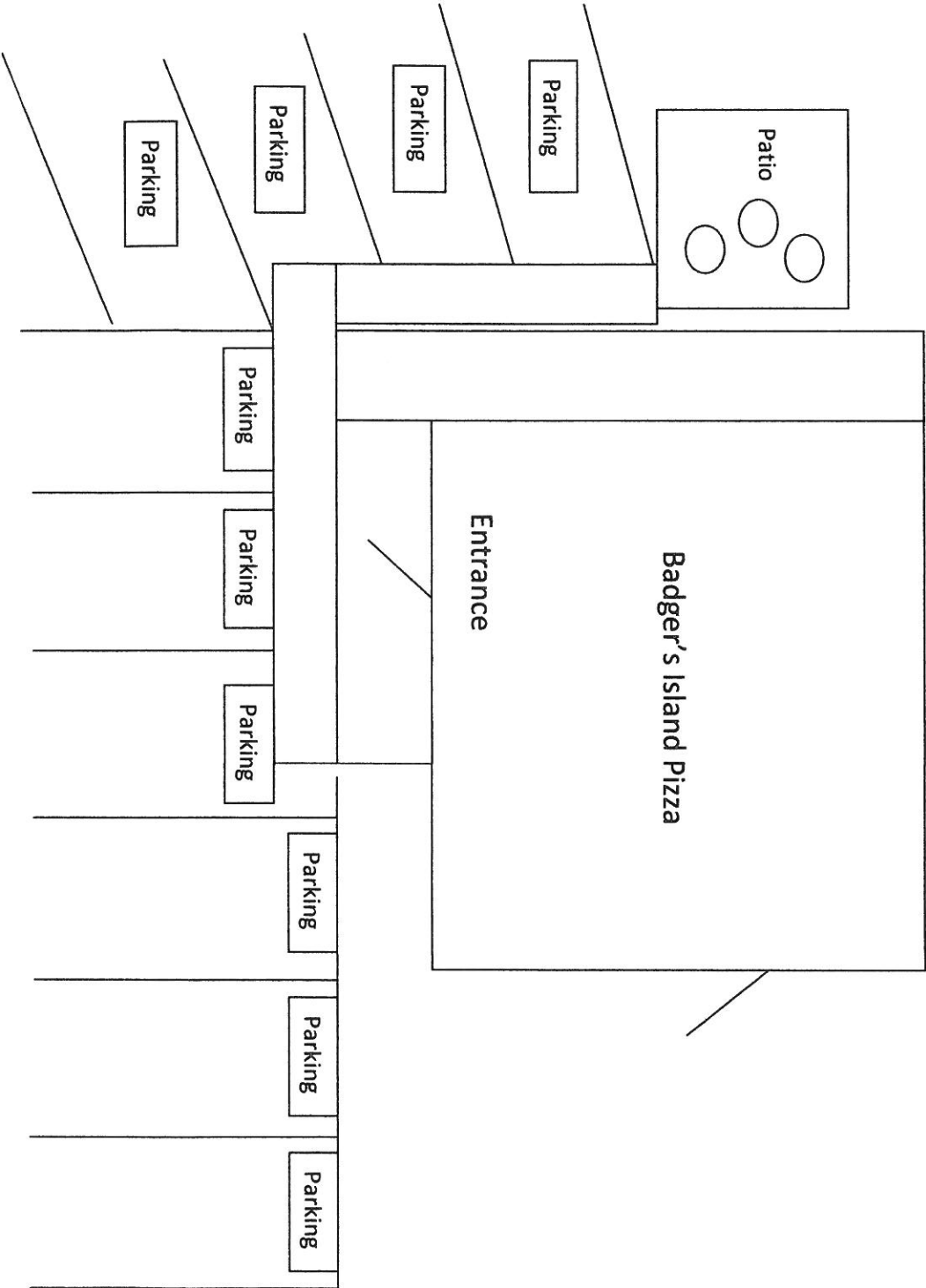
3/10/16
Date

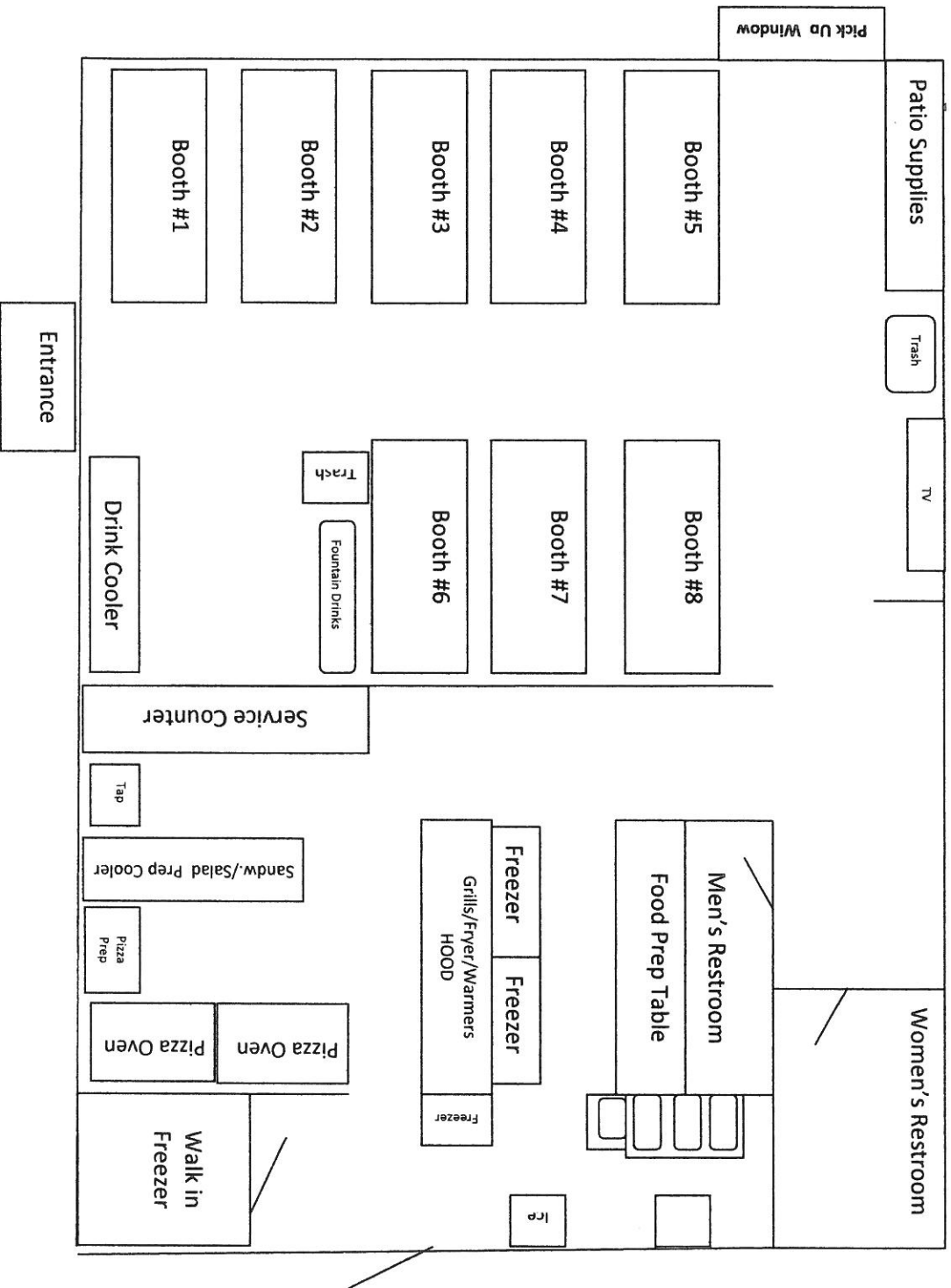
John Huddleston
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

Badger's Island Pizza





STATE OF MAINE

Dated at: _____, Maine _____ ss
City/Town (County)

On: _____
Date

The undersigned being: Municipal Officers County Commissioners of the
 City Town Plantation Unincorporated Place of:
_____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
 - A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
 - B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
 - C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c589, §1 (amd).]
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 - A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]
 - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
 - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]

lic hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all license requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. **No license to person who moved to obtain a license. (REPEALED)**

5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

March 22, 2016

Town of Kittery
Attn: Town Council
200 Rogers Road Ext.
Kittery, ME 03904

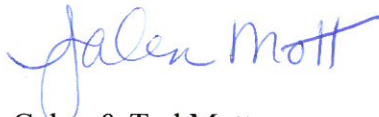
Dear Sirs and Madams,

We are writing to request permission to amend our liquor license to extend service of beer to a deck currently under construction and nearing completion. We were issued a Building Permit June 17, 2015 for such purpose. Pending completion and code inspection by a 3rd party, it is necessary to have the Town of Kittery's approval for State approval.

Please find attached the architectural design and diagram of the deck in relation to the building and brewery for your reference.

We respectfully submit this request.

Sincerely yours,



Galen & Tod Mott
Owners
Tributary Brewing Co.



Town of Kittery, Maine

This information has been compiled from various public and private sources. While every attempt has been made to provide accurate information, neither the municipality nor the service host guarantee the accuracy of information provided herein.

1. GENERAL PLANNING, ENGINEERING, FILE #, RESPONSIBLE FOR THE STRUCTURAL DESIGN OF THE BUILDING, AND CONCRETE TESTS ONLY.
2. BUILDING CODE REVIEW INCLUDING OCCUPANT LOAD CALCULATIONS, BUILDING CONSTRUCTION OF THE BUILDING, CODES REGULATIONS AND NOT INCLUDED IN THE DRAWING'S SCOPE OF WORK.
3. PERMITTING THROUGH THE LOCAL CODE AUTHORITY AND THE STATE FIRE MARSHAL ARE NOT INCLUDED IN THE DRAWING'S SCOPE OF WORK.
4. FOUNDATION DESIGN ARE NOT INCLUDED IN THE DRAWING'S SCOPE OF WORK. SEE NOTES REGARDING REQUIRED DESIGN OF CLIENTS.

1. ALL WORK SHALL CONFORM TO THE REQUIREMENTS OF ALL APPLICABLE STATE AND LOCAL CODES, INCLUDING BUT NOT LIMITED TO:

2. THE CONTRACTOR SHALL OBTAIN COST APPROVAL FROM THE CITY ENGINEER AND/OR THE CITY PLANNING DEPARTMENT FOR ANY STRUCTURES TO BE CONSTRUCTED ON THE STRUCTURE, EXCEPT FOR THE EXISTING STRUCTURES.
3. ALL STRUCTURES SHALL BE DESIGNED BY A LICENSED PROFESSIONAL ENGINEER OR ARCHITECT AND SHALL BE IN THE STATE OF TEXAS.
4. ALL STRUCTURES, BUILDINGS AND CONCRETE SHALL BE CONSTRUCTED IN THE FIELD OF THE EXISTING STRUCTURE, EXCEPT FOR THE EXISTING STRUCTURES TO BE DEMOLISHED OR REMOVED WITH THE APPROVED PLAN OF WORK.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DEMOLITION OF THE EXISTING STRUCTURES AND FOR THE CONSTRUCTION OF THE NEW STRUCTURES.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DEMOLITION OF THE EXISTING STRUCTURES AND FOR THE CONSTRUCTION OF THE NEW STRUCTURES.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DEMOLITION OF THE EXISTING STRUCTURES AND FOR THE CONSTRUCTION OF THE NEW STRUCTURES.
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9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DEMOLITION OF THE EXISTING STRUCTURES AND FOR THE CONSTRUCTION OF THE NEW STRUCTURES.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DEMOLITION OF THE EXISTING STRUCTURES AND FOR THE CONSTRUCTION OF THE NEW STRUCTURES.

THE STRUCTURE IS DESIGNED IN ACCORDANCE WITH THE AISC STEEL DESIGN GUIDE FOR STRUCTURAL SYSTEMS AND THE FOLLOWING BASIC DESIGN SNOW LOAD = 50 PSF

DECK LIVE LOAD = 100 PSF
 $C_1 = 1.2$
 $I_a = 1.0$

[illegible]

1. DOES EACH OF THE INSTALLED 300' OF CONNECTED STRUCTURAL TIE WITH A MINIMUM SURETIE END BRACE CAPABILITY OF 300K P.S.I.
2. REMOVE EXISTING REPAIR, REINFORCE, ORANGE WIRELESS, OR OTHER TIE THAT APPEAR TO BE UNDESIRABLE TO PREPARE THE REINFORCED SURFACE.
3. IF EXISTING TIE CONNECTIONS ARE DOCUMENTED THE CONTRACTOR SHALL CONTACT THE OWNER FOR DETERMINATION OF HOW TO REPAIR THE EXISTING TIE-ROD CONNECTIONS.
4. NO NEW TIE SHALL BE PLACED IN WATER OR IN PROTECTIVE COUPLER.
5. NO REPAIRING SHALL BE PLACED OVER A MINIMUM OF FOUR (4) TIE BARS.
6. REPAIRING SHALL BE PLACED OVER A MINIMUM OF FOUR (4) TIE BARS.
7. THE CONTRACTOR OPERATOR DOES NOT ASSUME RESPONSIBILITY TO CHECK THE SURETIE CONNECTIONS. THE OWNER SHALL BE RESPONSIBLE FOR THE VERIFICATION OF THE CONNECTIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE VERIFICATION OF THE CONNECTIONS TO PROVIDE VERIFICATION THAT SURETIE IS NOT SHOWN FOR EXISTING LOADS.

- CONCRETE**
1. ALL WORK SHALL CONFORM TO "SPECIFICATIONS FOR STRUCTURAL CONCRETE FOR BUILDINGS" (ACI 308), FRESH CONCRETE SHALL BE ADEQUATELY PROTECTED FROM WEATHER AS REQUIRED BY ACI PUBLICATION 308 AND 308.1.
2. COLDWEAR CHAIRING IS PROHIBITED IN THE CONCRETE MAT.

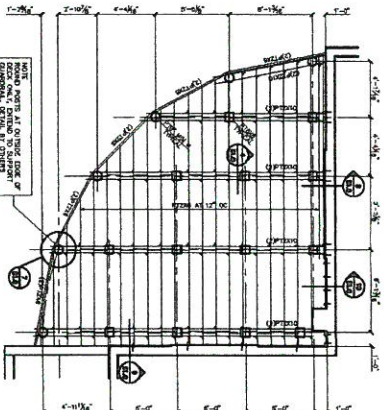
WOOD TRAINING

1. PRESENTED TRAINING LIBRARY SHALL BE SOLUTION-ORIENTED, GRADE NO. 2 OR BETTER, TREATED WITH AN INOC PROCESS SUITABLE FOR OUTDOOR USE.
2. ALL NO. 10 AND HIGHER LIBRARY TO BE SEASONED TO THE MAXIMUM WATERTIGHT CONTENT.
3. LIBRARY SHALL BE DONOR-FINISHED BY THE APPROPRIATE MANUFACTURERS ASSOCIATION FOR THE APPROPRIATE USE.
4. WOOD FINISHING SHALL BE SEAL, PLANE, LINE, SQUARE, AND TRIM WITH ACCORDANT GRADING AND CONNECTIONS, JOINTS, CUTS AND BORDS FINISHED TO PROTECT FROM SURFACE CONTACT WITHOUT USE OF SEAL.

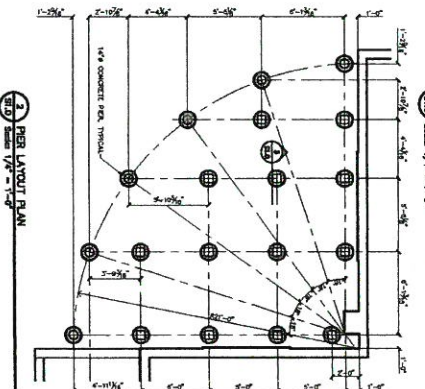
UNIVERSAL TRAINING OF WOOD TRAINING SHALL BE TO 2000 GR. TONEL 2004.61

- BOLTS FASTENING WOOD FRAMING**
1. BOLTS AND NUTS TO BE SPECIFIED AS STAINLESS STEEL SHALL BE TYPE 316 WITH CORROSIVE RESISTANT AND NUTS.
 2. BOLTS AND NUTS TO BE SPECIFIED AS GALVANIZED SHALL BE HOT-DIP GALVANIZED, DO NOT USE MECHANICALLY GALVANIZED OR ZINC PLATED MATERIAL.

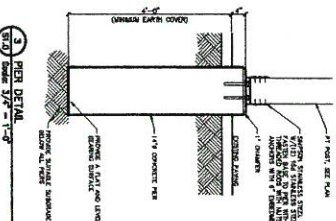
1. DRILLING JOISTS SHALL BE DRILLING 11-12" DRILL AND CROWN BOLTS AND DRILLING PRESTRESS IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS.



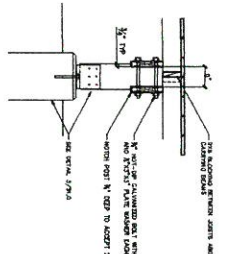
① DECK FRAMING PLAN
Scale: 1/4" = 1'-0"



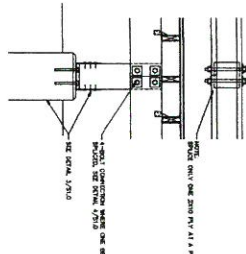
2 PIER LAYOUT PLAN
Scale: 1/8" = 1'-0"



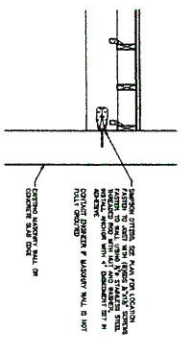
3 PIER DETAIL
SI.0 Code: 3/4" - 1'-0"



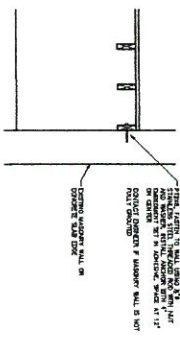
4 BEAM TO POST CONNECTION



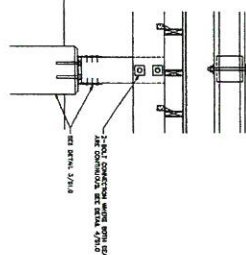
BEAM SPLICE AT POST CONNECTION



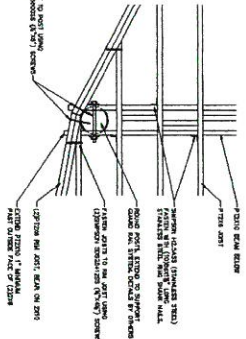
4 BEAM CONNECTION TO MASONRY WALL
 31.5 Section 3/4" = 1'-0"



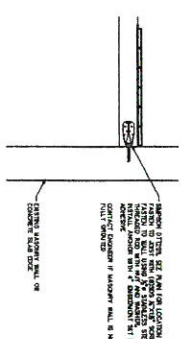
10 LEDGER CONNECTION TO MASONRY WALL



BEAMS CONTINUOUS AT POST CONNECTION



PLAN DETAIL AT OUTSIDE POST



JOIST CONNECTION TO MASONRY WALL.

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES 7-6-15

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

☐ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☒ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) —(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Tributary Brewing Co. LLC</u>		2. Business Name (D/B/A) <u>Tributary Brewing Co.</u>	
DOB: _____		DOB: _____	
DOB: _____		DOB: _____	
Address <u>5 Winding Brook Ln.</u>		Location (Street Address) <u>10 Shapleigh Rd., Ste. A</u>	
<u>South Berwick ME 03908</u>		<u>Kittery ME 03904</u>	
City/Town <u>207 384-2568</u>		City/Town <u>207 703-0093</u>	
State <u>ME</u>		State <u>ME</u>	
Zip Code <u>03908</u>		Zip Code <u>03904</u>	
Telephone Number _____		Business Telephone Number _____	
Fax Number _____		Fax Number _____	
Federal I.D. # <u>46-1683342</u>		Seller Certificate # _____	

3. If premises is a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ 202,360

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐

7. If manager is to be employed, give name: _____

8. If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: prefer Mon or Tues Business hours: 12-7 p.m.

9. Business records are located at: the brewery: 10 Shapleigh Rd., Kittery

10. Is/are applicant(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Theodore O.D. Mott	05/01/1958	New York City
Galen M. Mott	11/13/1959	New York City

Residence address on all of the above for previous 5 years (Limit answer to city & state)

Both: South Berwick, Maine

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: Driscoll

Realty, Inc. P.O. Box 207, Kittery Point, ME

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) Production brewery with separate tasting room

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1/4 mile Which of the above is nearest? Traip School

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: Sanford Institute for Savings

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

**Supplemental Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Tributary Brewing Co., LLC

2. Other business name for your entity (DBA), if any:

Tributary Brewing Co.

3. Date of filing with the Secretary of State: 10/22/2012

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Theodore O.D. Mott	5 Winding Brooke Ln, S. Berwick, ME	05/01/1958	49%
Galen M. Mott	5 Winding Brooke Ln, S. Berwick, ME	11/13/1959	51%

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:

Galen Mott
Signature of Duly Authorized Person

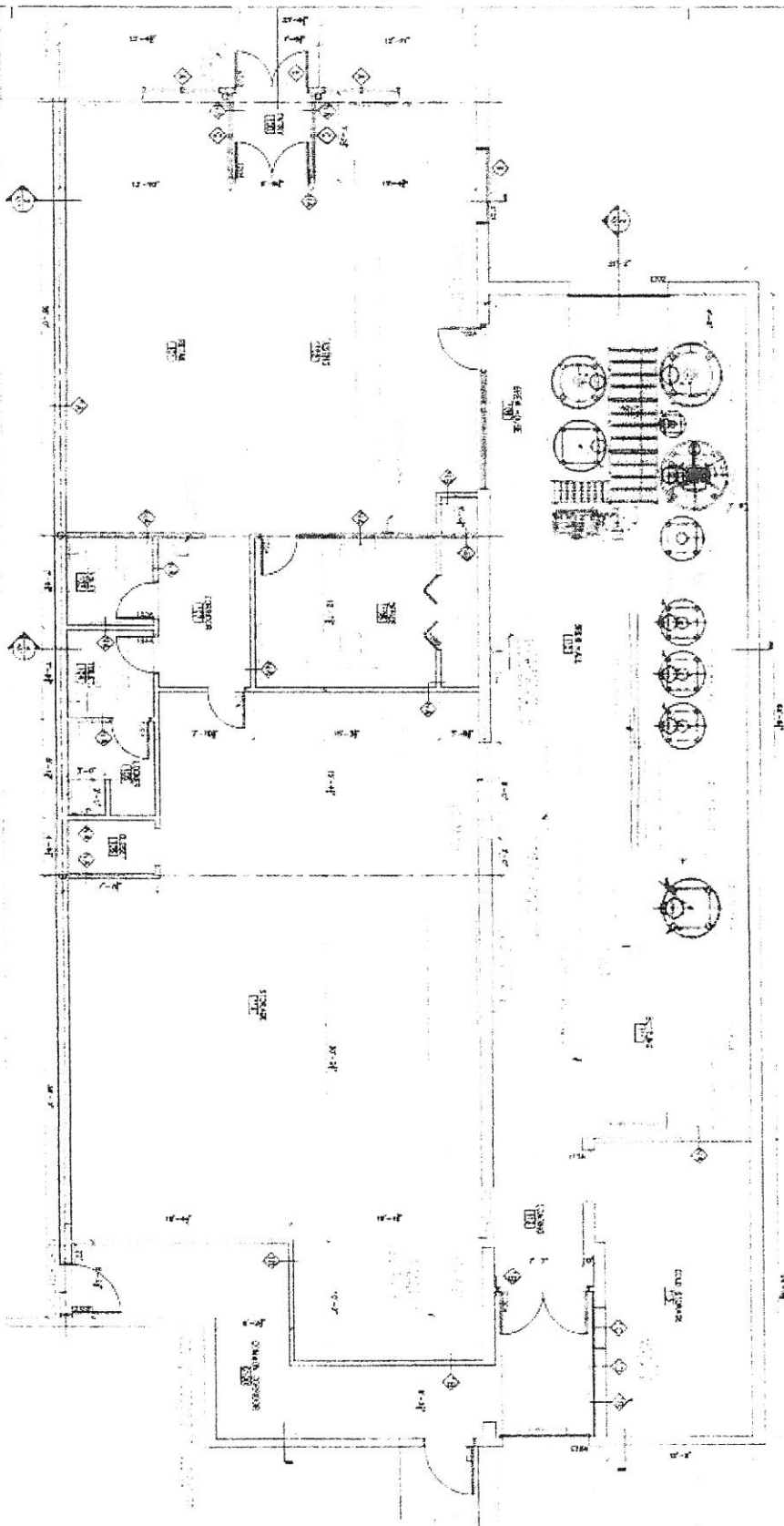
6/4/15
Date

Galen Mott
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station
Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov



A1.2

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

FILING FEE.....\$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to the Treasurer of Maine. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.

STATE OF MAINE

Dated at: Kittery, Maine York ss
 City/Town (County)
 On: 6/22/15
 Date

The undersigned being: ☒ Municipal Officers ☐ County Commissioners of the
☐ City ☒ Town ☐ Plantation ☐ Unincorporated Place of: Kittery, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

































KITTERY TRADING POST®

P.O. Box 904 • 301 US Rt. 1, Kittery, ME 03904
207-439-9222 • Fax 207-439-8001 • Open Daily 9-9, Sundays 10-6 • www.ktp.com

RECEIVED
MAR 21 2016
BY: _____

March 15th, 2016

Town of Kittery

Attn: Town Council

200 Rogers Road Ext.

Kittery, ME 03904

Dear Sirs and Madams,

We are writing to request permission to hold three special events. These three events will form our 2016 "Summer Concert Series". The concerts will be held here at our facility during the month of August. The dates are August 5th, 19th and 26th with all show times running from 6:00pm to 9:00pm. Each event will be a small concert with some vendors also supplying games and demonstrations.

Logistically, these events will require a 20' by 30' tent, stage, sound and lighting. There will be no formal seating and we anticipate a moderate turnout. Visitors will use our own onsite parking and can access the concert area via crosswalks and lighted walkways. The event will be held on our lawn area which borders Route 1 and Bob's Clam Hut. We will notify our business neighbors prior to the event.

For your review I have attached a site map with the location of the concerts. We respectfully submit this request and we thank you for your time.

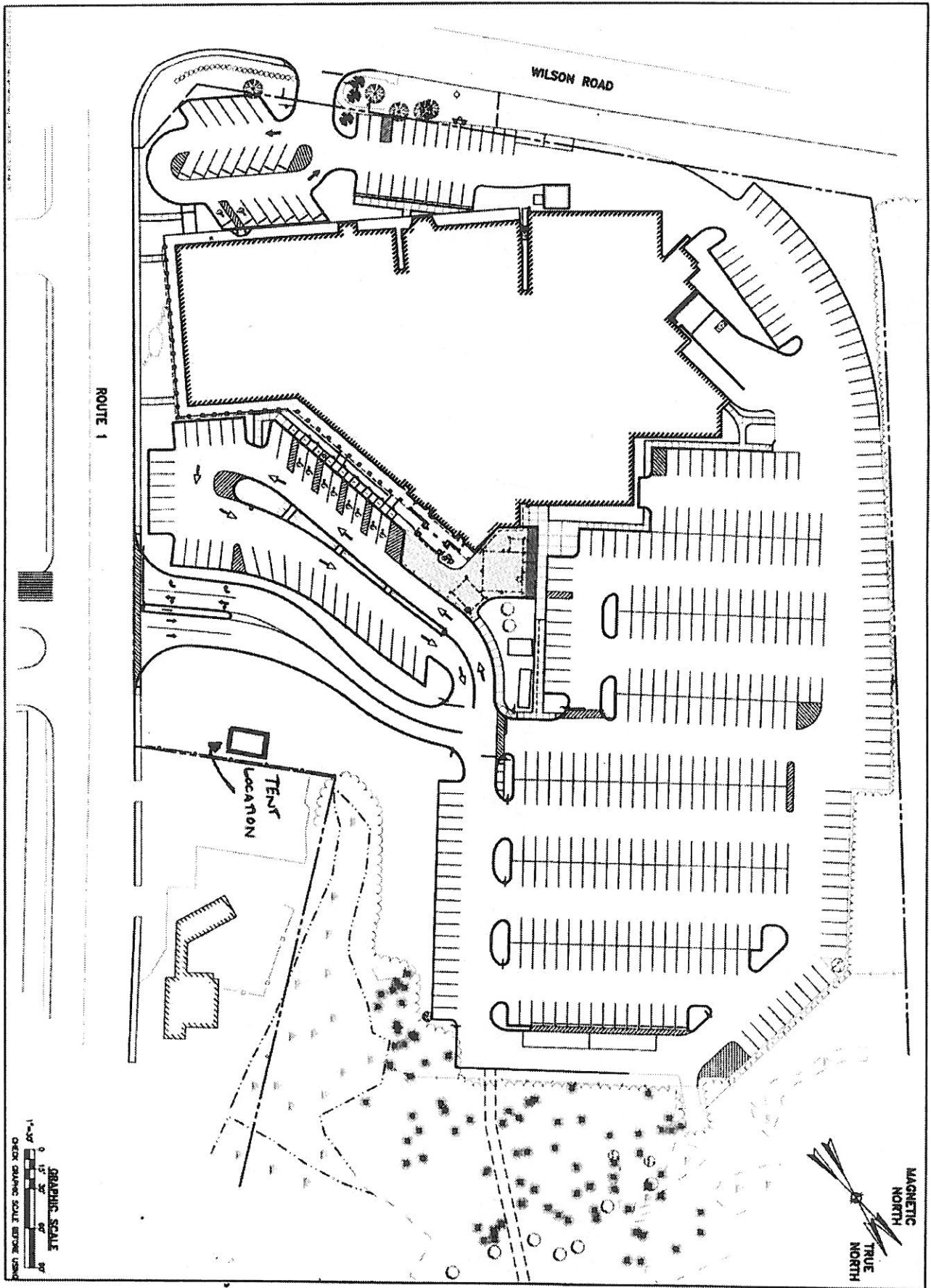
Sincerely yours,



Nicholas Howard

Events Coordinator

Kittery Trading Post



KITTERY TRADING POST®

P.O. Box 904 • 301 US Rt. 1, Kittery, ME 03904
207-439-9222 • Fax 207-439-8001 • Open Daily 9-9, Sundays 10-6 • www.ktp.com

RECEIVED
MAR 21 2016

BY:.....

March 15th, 2016

Town of Kittery

Attn: Town Council

200 Rogers Road Ext.

Kittery, ME 03904

Dear Sirs and Madams,

We are writing to request permission to hold a special event. This event will be the Maine Inland Fisheries and Wildlife Moose Hunting Lottery. The drawing will be held here at our facility on June 11th 2016 and will run for the entire day ending at about 7pm. The event will include some vendors selling product and services.

Logistically, this event will require a 40' by 80' tent, stage, seating, sound and lighting. We expect an estimated turnout of 1500 people spread out throughout the day. Visitors will use our own onsite parking and can access the Lottery area via crosswalks and walkways. The event will be held on our lawn area which borders Route 1 and Bob's Clam Hut as well as our patio area for vendors. We will notify our business neighbors prior to the event.

For your review I have attached a site map with the location of the tent. We respectfully submit this request and we thank you for your time.

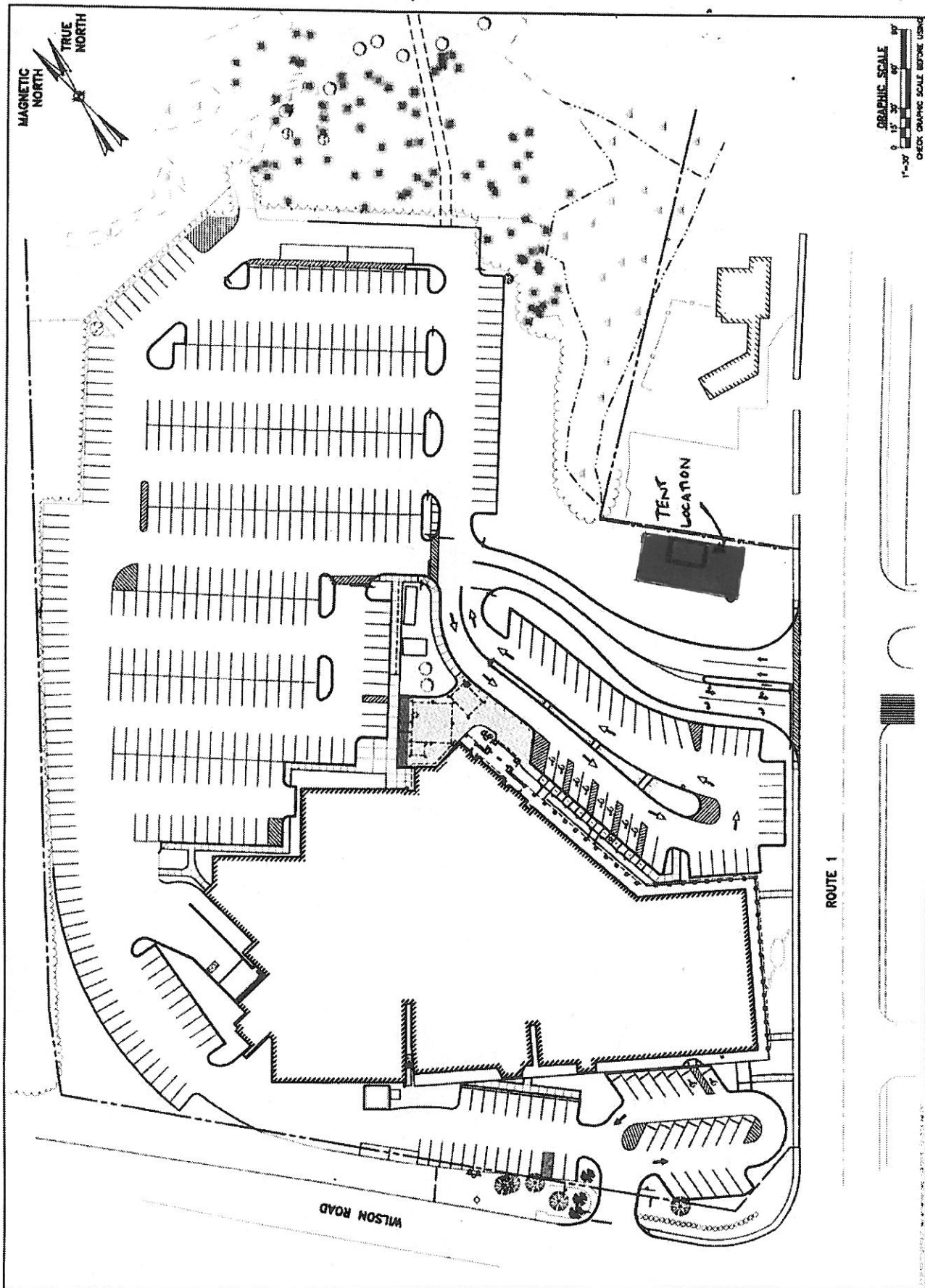
Sincerely yours,



Nicholas Howard

Events Coordinator

Kittery Trading Post





March 21, 2016

Town of Kittery
Attn: Kittery Town Council
200 Rogers Road
Kittery, ME 03904

Dear Sirs and Madams,

I am writing to ask for the council's permission to hold an event to celebrate the 60th Anniversary of Bob's Clam Hut. The event is to be held on Thursday, June 9, 2016 between the hours of 5pm and 9pm under a tent on the lawn of the Kittery Trading Post. (See map.)

Bob's Clam Hut's 60th Anniversary "Clam Suppah," will be a family friendly night filled with appreciation to our guests and community for their years of support. We expect 500 guests. Attendants will be treated to bites that highlight the clam from 6 to 10 chefs who have been friends and inspirations to Bob's over the years. In addition, we are planning to offer beer tastings from Tributary and Smuttynose Breweries. The license for alcohol serving will be provided under the Kittery Trading Post liquor license that is pending approval. (Should that license be delayed, we will apply for a tasting license under Robert's Maine Grill's name.)

Kittery Trading Post has arranged approximately 150 parking spaces for this night and Bob's will provide free valet to all guests using Bob's lots, 23 spaces from Kittery Premium Outlets as well as spaces at KTP X-ports.

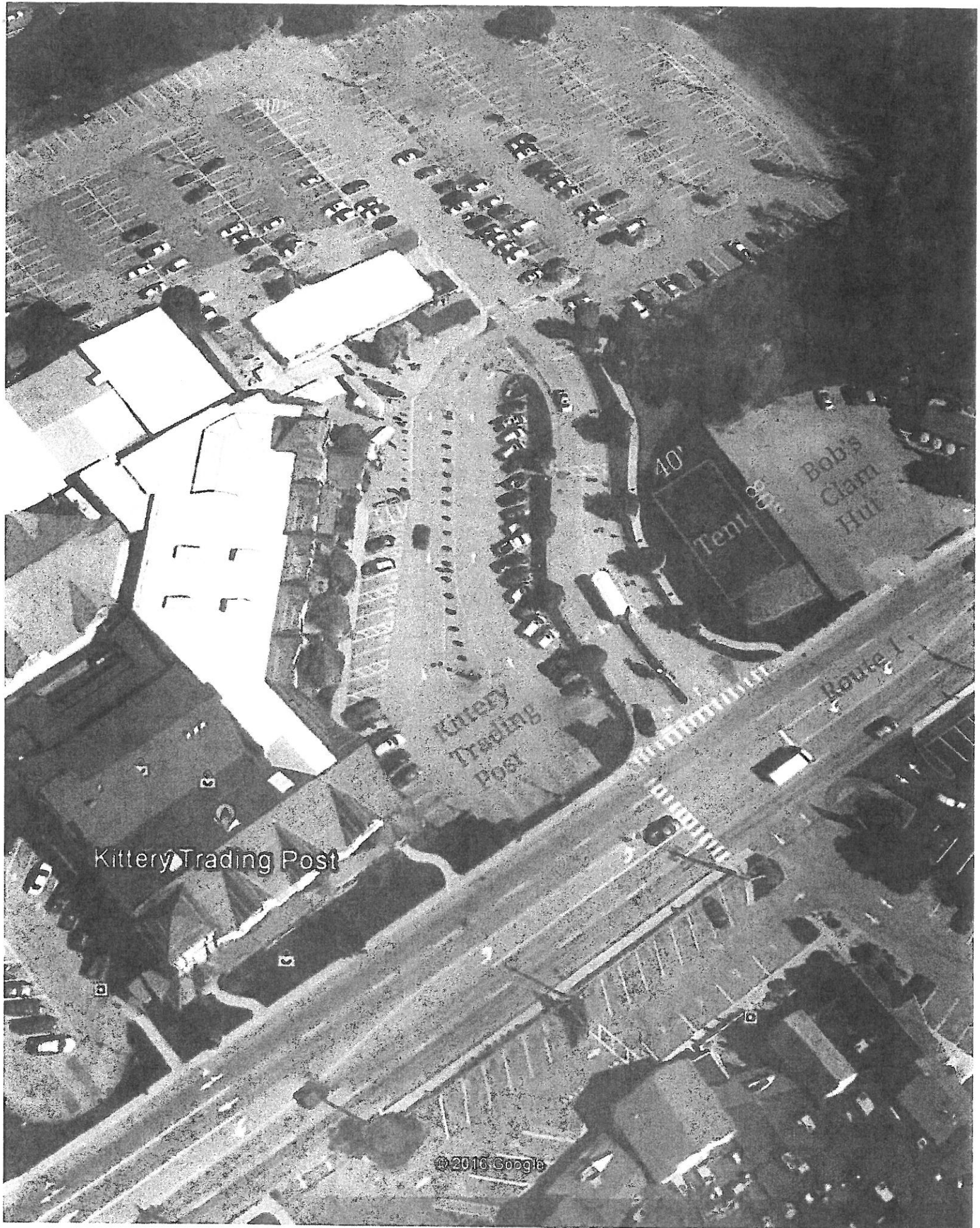
Restrooms at Kittery Trading Post as well as Bob's will serve our guests.

We will notify our abutting neighbors of the event. If the Town or Kittery police feel a detail is required we will hire a police detail.

I respectfully submit this request.

Michael Landgarten
Bob's Clam Hut

Enclosures: 2



1:50,000 1:25,000 1:10,000 1:5,000 1:2,000 1:1,000 1:500 1:250 1:100 1:50 1:25 1:10 1:5 1:2 1:1

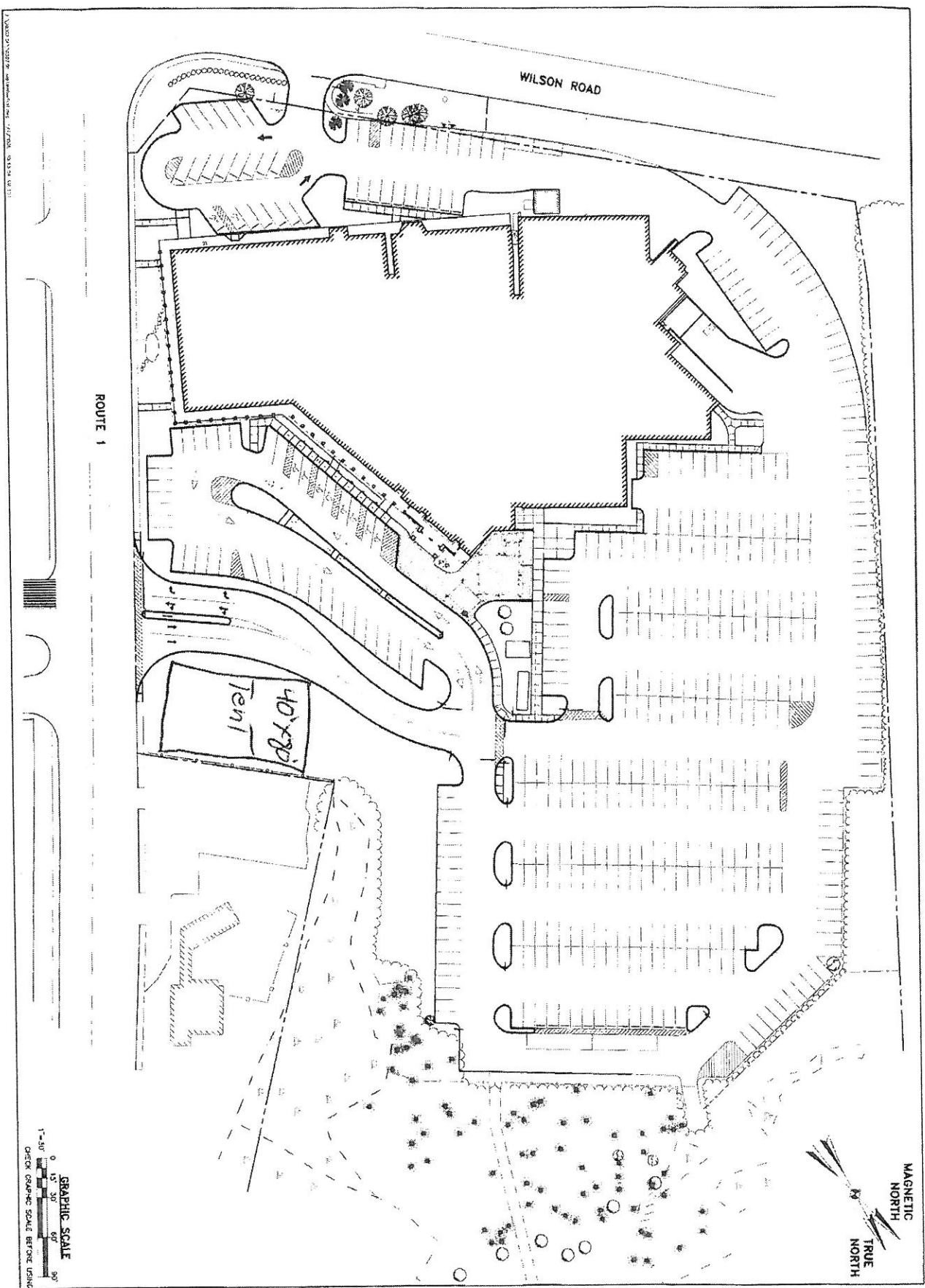
ROUTE 1

WILSON ROAD

40' x 20'
Ten

GRAPHIC SCALE
1"=50'
0 15 30 45 60 75 90
CHECK GRAPHIC SCALE BEFORE USING

MAGNETIC
NORTH
TRUE
NORTH



Kittery Fire Station Association

3 Gorges Road Kittery ME 03904

March 10, 2016

Town Council,

The Kittery Fire Station Association will be holding its annual pancake breakfast and annual 5K run on Saturday, May 21, 2016 and Sunday May 22, 2016 respectively. The Association is asking your permission to post road signs at locations in our community to advertise the breakfast and race. Additionally, we are asking permission to hang a 5K Race advertisement banner across Rodgers Road, as well as hang one from York Hospital's outside wall on the corner of Walker and Rt1 (State St.). The Association's 5K Race Committee has York Hospital's invitation and permission to do so.

The Association has general insurance coverage for the breakfast. Thirty days prior to the Race, the Association will have special insurance that covers the Race Event. Copies can be provided at your request.

Details of the signs are as follows

Breakfast signs (approx. 12)

Approximate Size: 3x3ft

Construction: wood

Verbiage: Pan Cake Breakfast

Kittery Fire Station

21 May

0700-1030

Locations: a few locations in town, on the side of the road, at cooperative businesses and in private homes' yards

Dates: May 1 to May 21, 2016

5K Race signs (approx. 12)

Approximate Size: 3x3ft

Construction: Plastic with two metal prongs

Verbiage: 5k Race

Kittery Fire Station

22 May

0900

Locations: throughout the town, on the side of the road, at cooperative business, and in private homes' yards

Dates: May 1 to May ~~16~~ 2015

5K Race sign (banner)

Rodgers Rd: Approximate Size: 3x15ft

Construction: Vinyl

Verbiage: 9th Annual 5K road race and walk

Kittery Fire Station

22 May 2016

Location: Across Rodger road at Kittery Community Center

Dates: May 1 to May 22, 2016

5K Race and Breakfast sign (banner)

York Hospital Clinic: Approximate Size: 4x5ft (as below though the dates differ)

Construction: Vinyl

Verbiage: 5K RUN and WALK and KID'S RUN

Pancake Breakfast

21 and 22 May 2016

Location: On the wall, facing the intersection of Walker St and Rt1

Dates: May 1 to May 22, 2016



The pancake breakfast and 5K race are the Association's main events to raise funds to support the Fire Department and the Association's other activities and events through the year.

Examples for 2015 include buying an additional thermal imager, sponsoring a Scholarship for a Traip Academy Graduate, hosting the Halloween Party at the old station, donations to the Kittery Holiday Basket, hosting and sponsoring training events at the Station.

Please consider this request favorably.

Any Question, please call me

Wayne Hennessy

Kittery Fire Station Association Treasurer

603 969 7543

MAIL DIRECT

03292.33ZN2.JSS1210329540.01.01.2472
TOWN OF KITTEERY
200 ROGERS RD
KITTEERY, ME 039041458

USAA General Indemnity Company
PO Box 33490
San Antonio, TX 78265

INVOICE #: USAA-86450262115500964700
USAA #: 026214586
LOSS RPT #: 8
LOSS DATE: 02/05/2016
POLICYHOLDER:
JOHNNY R GARCIA

LOB: AUT
CLAIMS REP: 06804-04
CHECK #: 0014171825
CHECK DATE: 03/08/2016

EXPLANATION OF PAYMENT	TOTAL PAYMENT AMOUNT
Payment under Property Damage Liability Coverage Town of Kittery, POLE	\$**3,424.08

18433-1013

93868-0215

FACE OF DOCUMENT HAS A COLORED BACKGROUND. THE BACK CONTAINS AN ARTIFICIAL WATERMARK. HOLD AT ANGLE TO VIEW.



USAA General Indemnity Company
PO Box 33490
San Antonio, TX 78265

51-44/119 CT

0014171825

DATE
03/08/2016

CHECK AMOUNT
\$**3,424.08

PAY **Three Thousand Four Hundred Twenty-Four and 08/100 s**

TO TOWN OF KITTEERY
THE
ORDER
OF:

USAA #: 026214586 / LR #: 8

NATURE OF PAYMENT:
Payment under Property Damage Liability Coverage Town of Kittery, POLE

BANK OF AMERICA - HARTFORD, CT

VOID 180 DAYS FROM ISSUE DATE

AUTHORIZED SIGNATURE

⑈0014171825⑈ ⑆011900445⑆ 2240015665⑈

Memorandum

TO: Maryann Place, Town Clerk
FROM: Cindy L. Saklad, Finance Director
DATE: March 15, 2016
RE: Unencumbered Appropriation Transfer per Charter Section. 6.09 (4)

Section 6.09 (4) of the Town Charter allows for the transfer of all or part of any unencumbered appropriation balance from one department, office or agency to another at any time during the fiscal year or within 60 days (as amended).

The FY15 budget adopted by Council on June 23, 2014 contains an appropriation in the Administration Budget for Salary and Position Adjustments (Account 101110-64031) with a balance of \$29,989 remaining. This amount was budgeted for increases for union and non-union employees' salaries/wages and any benefit linked to salary/wages (retirement and FICA).

The Finance Director requests the Town Council to allow for the transfer of \$18,060 from Account 101110-64031 to the following Police Department Accounts:

TRANSFER FROM:		101110-64031	\$ 18,060.00
TRANSFER TO:			
SCHOOL RESOURCE OFFICER SALARY		101310-64013	\$ 1,199.00
DETECTIVES SALARIES		101310-64014	\$ 2,565.00
PATROLMEN SALARIES		101310-64015	\$ 11,082.00
FICA		101310-64060	\$ 1,136.00
MAINE STATE RETIREMENT		1013410-64050	\$ 2,078.00
		TOTAL	\$ 18,060.00

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2005-2006 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 16,745,624.11	
2. Supplemental commitments totaling	31,390.35	
3. Interest:	-	
4. A grand total of:		<u>16,777,014.46</u>
5. Cash payments	16,600,100.36	
6. Abatements granted	14,313.92	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	160,778.80	
8. Other credits	-	
9. A net total of		<u>16,775,193.08</u>
10. Balance due of		<u>1,821.38</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge you from further liability or obligation to collect the balance due of \$1,821.38

and acknowledge receipt of the tax lists for the taxable year 2005-2006.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2006-2007 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 17,521,324.96	
2. Supplemental commitments totaling	34,948.67	
3. Interest:	-	
4. A grand total of:	<u>17,556,273.63</u>	
5. Cash payments	17,332,658.15	
6. Abatements granted	17,836.73	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	203,032.27	
8. Other credits	-	
9. A net total of	<u>17,553,527.15</u>	
10. Balance due of		<u>2,746.48</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$2,746.48

and acknowledge receipt of the tax lists for the taxable year 2006-2007.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2007-2008 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 18,310,436.20	
2. Supplemental commitments totaling	32,391.79	
3. Interest:	-	
4. A grand total of:	<u> </u>	<u>18,342,827.99</u>
5. Cash payments	18,115,026.42	
6. Abatements granted	5,812.80	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	219,924.45	
8. Other credits	-	
9. A net total of	<u> </u>	<u>18,340,763.67</u>
10. Balance due of		<u>2,064.32</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$2,064.32

and acknowledge receipt of the tax lists for the taxable year 2007-2008.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2008-2009 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 18,634,391.14	
2. Supplemental commitments totaling	34,177.17	
3. Interest:	<u>4,247.12</u>	
4. A grand total of:		<u>18,672,815.43</u>
5. Cash payments	18,402,881.14	
6. Abatements granted	9,259.40	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	<u>255,859.71</u>	
8. Other credits	<u>-</u>	
9. A net total of		<u>18,668,000.25</u>
10. Balance due of		<u>4,815.18</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$4,815.18

and acknowledge receipt of the tax lists for the taxable year 2008-2009.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2009-2010 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 18,970,153.14	
2. Supplemental commitments totaling	39,130.56	
3. Interest:	5,216.95	
4. A grand total of:		<u>19,014,500.65</u>
5. Cash payments	18,686,969.11	
6. Abatements granted	3,953.68	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	315,843.72	
8. Other credits	-	
9. A net total of		<u>19,006,766.51</u>
10. Balance due of		<u>7,734.14</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$7,734.14

and acknowledge receipt of the tax lists for the taxable year 2009-2010.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2010-2011 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 19,407,970.02	
2. Supplemental commitments totaling	50,096.90	
3. Interest:	6,198.24	
4. A grand total of:		<u>19,464,265.16</u>
5. Cash payments	19,155,498.17	
6. Abatements granted	3,838.80	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	305,000.50	
8. Other credits	-	
9. A net total of		<u>19,464,337.47</u>
10. Balance due of		<u>(72.31)</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of -\$72.31

and acknowledge receipt of the tax lists for the taxable year 2010-2011.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2011-2012 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 19,757,781.60	
2. Supplemental commitments totaling	73,188.35	
3. Interest:	6,694.88	
4. A grand total of:		<u>19,837,664.83</u>
5. Cash payments	19,527,053.45	
6. Abatements granted	7,165.43	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	301,635.19	
8. Other credits	-	
9. A net total of		<u>19,835,854.07</u>
10. Balance due of		<u>1,810.76</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$1,810.76

and acknowledge receipt of the tax lists for the taxable year 2011-2012.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2012-2013 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 20,826,652.64	
2. Supplemental commitments totaling	67,933.97	
3. Interest:	6,707.14	
4. A grand total of:		<u>20,901,293.75</u>
5. Cash payments	20,606,277.49	
6. Abatements granted	6,619.23	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	285,594.79	
8. Other credits	-	
9. A net total of		<u>20,898,491.51</u>
10. Balance due of		<u>2,802.24</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$2,802.24

and acknowledge receipt of the tax lists for the taxable year 2012-2013.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2013-2014 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 21,277,448.75	
2. Supplemental commitments totaling	82,145.48	
3. Interest:	<u>7,096.41</u>	
4. A grand total of:		<u>21,366,690.64</u>
5. Cash payments	20,994,831.78	
6. Abatements granted	31,360.82	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	<u>335,130.06</u>	
8. Other credits	-	
9. A net total of		<u>21,361,322.66</u>
10. Balance due of		<u>5,367.98</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$5,367.98

and acknowledge receipt of the tax lists for the taxable year 2013-2014.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2014-2015 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 21,881,318.82	
2. Supplemental commitments totaling	94,688.43	
3. Interest:	9,036.21	
4. A grand total of:		<u>21,985,043.46</u>
5. Cash payments	21,657,829.64	
6. Abatements granted	9,769.81	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	312,077.74	
8. Other credits	-	
9. A net total of		<u>21,979,677.19</u>
10. Balance due of		<u>5,366.27</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$5,366.27

and acknowledge receipt of the tax lists for the taxable year 2014-2015.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

Certificate of Settlement
State of Maine

County of York ss.

To **Nancy Colbert Puff**, Tax Collector of the municipality of Kittery within this County:

We hereby certify that the 2015-2016 taxes committed to you consisting of :

1. Real and Personal Tax commitments	\$ 22,289,416.82	
2. Supplemental commitments totaling	88,331.50	
3. Interest:	8,039.17	
4. A grand total of:		<u>22,385,787.49</u>
5. Cash payments	14,774,799.97	
6. Abatements granted	9,113.67	
7. Tax lien mortgages (recorded in the York County Registry of Deeds)	-	
8. Other credits	-	
9. A net total of		<u>14,783,913.64</u>
10. Balance due of		<u>7,601,873.85</u>

Under the authority contained in MRSA, Title 36, section 763, as amended, we hereby discharge
you from further liability or obligation to collect the balance due of \$7,601,873.85

and acknowledge receipt of the tax lists for the taxable year 2015-2016.

Given under our hands this 28th day of March A.D. 2016.

Municipal Officers of The Town of Kittery, Maine

CERTIFICATE OF RECOMMITMENT

COUNTY OF York ss. STATE OF MAINE

To Carol Granfield, the Collector of the Municipality

of Kittery

Herewith are committed to you true lists of the assessments of the Estates of the persons therein named; you are to levy and collect the same, of each on of his/her respective amount, therein set down, of the sum total \$ 7,636,330.29 (being the yet uncollected amount of the lists contained herein), according to the tenor of the foregoing warrant.

Given under our hands this 28th day of March, 2016

Assessor(s) (Municipal Officers in a primary assessing area)

2005-2006	1,821.38
2006-2007	2,746.48
2007-2008	2,064.32
2008-2009	4,815.18
2009-2010	7,734.14
2010-2011	(72.31)
2011-2012	1,810.76
2012-2013	2,802.24
2013-2014	5,367.98
2014-2015	5,366.27
2015-2016	7,601,873.85
TOTAL	7,636,330.29

2016
Democratic Election Clerks

Geraldine Wheeler	46 Rogers Road	Kittery	439-2693
Wayne Bachner	12 Gerrish Island Lane	Kittery Point	439-1268
Judith Jones	12 Gerrish Island Lane	Kittery Point	439-1268
Debby Ronnquist	611 Haley Road	Kittery	439-3981
Martha Kowal	62 Chauncey Creek Road	Kittery Point	439-5474
Anne Morgan	4 Captain's Way	Kittery Point	439-6689
Sandy Lutts	603 Haley Road	Kittery Point	439-1108
Susan Tennant	19 Old Ferry Lane	Kittery	439-0904
Ellen Fish-Kingsbury	40 Goodwin Road	Kittery Point	439-6449
Hanna Frank	8 Shepherds Way	Kittery Point	439-8432
Flora Welsh	100 Shepards Cove	Kittery	439-7959
Craig Wilson	22 Charles Hill Road	Kittery Point	439-4153
Linda Ruksznis	40 Remicks Lane	Kittery	439-2474
Herbert Kingsbury	100 Shepard Cove #H201	Kittery	439-6449
Marilyn Stebbins	143 Rogers Road #105	Kittery	807-6675
Kathryn Pridham	28 Shapleigh Road	Kittery	439-6338
Bryan Boyle	71 Cutts Road	Kittery	251-6045
Debby Boyle	71 Cutts Road	Kittery	251-6045
Margaret Dube	9 Whitetail Lane	Kittery	439-4762
Ann Pierce	6 Rosellen Drive	Kittery	439-2736
Marcy Philbrook	38 Love Lane	Kittery	439-0721
Barbara O'Brien	136 Norton Road	Kittery	439-2722

Judy Shaw-Kagiliery	61 Manson Road	Kittery	475-4981
Nancy Long-Broughton	14 Mendum Ave	Kittery	439-0150
Mary Jane Rowen	595 Haley Road	Kittery Point	439-3687
Lynn Stacy	1 Idlewood Lane #54	Kittery	603-339-1339
John Navish	21 Wyman Ave	Kittery	439-3314
Rebecca Emerson-Brown	11 Wilson Road	Kittery	603-205-6043

2016
Republican Election Clerks

Joyce Tobey	167 Rogers Road	Kittery	439-6334
Shirley Washburn	77 Bartlett Road	Kittery Point	439-1537
Theresa Gilman	27 Wilson Road	Kittery	475-5279
Emily Doble	100 Village Green A4	Kittery	439-2957
Judith Lincoln	15 Sterling Road	Kittery	439-8679
Eric Lemont	11 Park Street	Kittery	457-5472
Joyce Tracksler	97 Goodwin Road	Kittery Point	439-7405
Linda Starbard	162 B. B. Harbor Road	Kittery Point	439-0563
Shirley Anderson	160 B. B. Harbor Road	Kittery Point	438-9557
Lisa Vespa	14 Tilton Ave P.O. Box 933	Kittery	451-0821
Julius Marullo	76 B. B. Harbor Road	Kittery Point	603-502-7600
Elinor (Jane) Brooks	87 Brave Boat Harbor Rd	Kittery Point	439-2982
Mary Jean Labbe	87 Goodwin Road	Kittery Point	439-4839
Carol Cooper	342 Haley Road	Kittery Point	439-3729
Patricia Flynn	74 Goodwin Road	Kittery Point	439-9428
Janice Carson	79 Goodwin Road P.O. Box 14	Kittery Point	439-4372
Michael Cocco	620 Haley Road	Kittery Point	439-2931
Karlene Arnold	95 Old Dennett Road	Kittery	439-2764
Gail Lemont	154 Whipple Road	Kittery	439-3698

REPORT to the KITTERY TOWN COUNCIL – FORT FOSTER PASSES

RESPONSIBLE INDIVIDUAL: Councilor Charles Denault

Date: 03/21/2016

Subject: Fort Foster Passes – School Employees

Background:

- The Kittery Town Council received a letter from a group of teachers from Kittery's Mitchell School teachers, dated June 10th, 2015 (Attachment 1), requesting support of a free Fort Foster pass be given to them as Town Employees as a small gesture in support of the Town's teachers.
- The request was never acted upon and no official answer was provided to the letter.
- It has apparently been referenced in Union Contracts and that the pass was a union negotiated contractual issue, however, it is also actually found in Kittery Town Code, Section 2.3.17.20 Use of Facilities, which states: *"The Town is to provide employees with one free annual pass to Fort Foster."*
- Only Municipal Employees are presently allowed the one Fort Foster Pass.
- Title 2 does not define an "Employee".
 - Part Time regular Town employees are granted this benefit.
 - Fort Foster passes are often given gratis to military personnel from the Portsmouth Naval Shipyard.

Current Situation:

- School Department Employees are not accorded the same privilege as other Town employees.
 - The "Town of Kittery" is printed on School employee payroll documents.

Proposed Solution

- Grant all our employees the right of the Basic workweek-Fringe benefits by clarifying Title 2, Section 2.3.17.20, Use of Facilities, to affirm school employees are included.

Rationale for the Proposed Solution:

- The spirit of being a good employer is honored because:
 - ALL Town employees are treated equally and fairly.
 - It affords teachers an additional way for families and students to interact with them.
 - It will not cost the Town significant revenue.
 - It is the right thing to do.

1 Attachment

Mitchell teacher letter, June 10, 2015

Dear Council Members,

The distribution of passes would be a small gesture from the Town of Kittery that would mean a lot in representing the Town's support of its teachers! Thank you for your consideration of this small request.

The Mitchell School Teachers

Denise Stearns
Katherine Hollander
Anne Mason
(Lithium) Gortner

Barbara Hill
Robin Nelson
Jackie Sawyer
Jeri A. Hatley
Pamela Jordan-Rutledge
Michelle Perry
Kari Peterzell
Heather Chiswardin
Kristin S Davis
Amy M. Wilson
Dana Kicken
Jill Welch
Jana Caputo
Audra M. Palmer
Dana MacKenzie
Kendall
Kristen Greene
Lynn
Tonya Fitzgerald
Christina Caputo

2016 TENTATIVE AGENDA ITEMS

April 11, 2016

- Disbursement warrants
- Neighborhood Network Presentation - Patricia Martine?
- School Budget presented to Council
- Council takes preliminary vote on the School Budget and schedules May 9th for School Budget public hearing for its final approval on the School Budget
- Council votes on the Town Meeting warrant articles language for the June 14th ballot
- Schedule a public hearing for 4/25/16 – Approve the extension of the MRI contract for Carol Granfield to expire upon the appointment of a new Town Manager
- Public Hearing – Transfer Between Accounts

April 25, 2016

- Disbursement warrants
- Town Manager presents Municipal Budget to Council
- Public Hearing – Extending MRI contract for Carol Granfield's to expire upon the appointment of a new Town Manager
- Approve extending Carol Granfield's appointment until a new Town Manager is appointed

May 9, 2016

- Disbursement warrants
- Public Hearing – Council votes on School Budget
- Public Hearing – Council votes on School Ordinances
- Council schedules June 13th for a public hearing to vote on the FY'17 Municipal Budget

May 23, 2016

- Disbursement warrants
- Education Scholarship Awards
- Victualer's License Renewals
- Amusement Device Renewals

June 13, 2016

- Disbursement warrants
- Public Hearing – Council votes on the FY'17 Municipal Budget
- Public Hearing – Town Meeting

June 27, 2016

- Disbursement warrants